No. 07-103

In The
Supreme Court of the United States

RICKIE L. REBER, TEX WILLIAM ATKINS, STEVEN PAUL THUNEHORST, AND C.R.,

Petitioners,

v.

STATE OF UTAH,

Respondent.

On Petition For A Writ Of Certiorari To The Utah Supreme Court

BRIEF OF THE UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION AS AMICUS CURIAE IN SUPPORT OF RESPONDENT STATE OF UTAH AND IN OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI

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The Ute Indian Tribe of the Uintah and Ouray Reservation ("Ute Tribe") respectfully submits its brief in opposition to the Petition for Writ of Certiorari.

UTE CONSTITUTION, STATUTES, ORDINANCES, AND OTHER AUTHORITY

The following authorities are set forth verbatim in Appendix A:

Ute Tribe Constitution
Ute Tribe Ordinance 92-05
Ute Partition Act, 25 U.S.C. §§ 677-677aa
Cooperative Agreement between the Ute Tribe and State of Utah

STATEMENT OF INTEREST OF AMICUS CURIAE[1]

The Ute Tribe, as recognized by the Department of the Interior ("Interior"), exercises all Tribal sovereign authority over hunting and fishing and other activities within the Uintah and Ouray Reservation ("Reservation"). The Ute Tribe has a substantial interest in the Petition for Writ of Certiorari because

[1] Letters from all parties consenting to the filing of this brief have been filed with the Clerk of Court. Counsel for the Ute Tribe authored this amicus brief in its entirety. No person or entity other than the Ute Tribe contributed monetarily to the preparation of this brief. Sup. Ct. R. 37.6.

Petitioners seek to divest the Ute Tribe of the sovereign authority it has exercised over hunting and fishing on the Reservation for over 70 years. The Ute Tribe's opposition to the Petition is consistent with and supports that of Respondent State of Utah.

SUMMARY OF REASONS FOR DENYING THE PETITION

In petitioning for certiorari Petitioners present no conflict among the courts nor any other of the compelling reasons typically necessary to obtain certiorari. Sup. Ct. R. 10. Petitioners instead assert hunting and fishing rights which are contrary to settled law. Petitioners claim that the Uintah Band, not the Ute Tribe, possesses sovereign authority over hunting and fishing within the Reservation. Petition ("Pet.") at 4, 15. Petitioners have claimed to be affiliated with several different bands and tribes even in the course of this litigation, *infra* at 11-12, but currently claim to possess hunting and fishing rights on the Reservation as members of the Uintah Band, Pet. at 4-5, 15. The courts and Interior have uniformly rejected Petitioners' claim that the Uintah Band holds independent hunting and fishing rights. Those authorities hold that (i) the Uintah Band long ago "ceased to exist separately outside the Ute Tribe" and (ii) any argument that the "Uintah Band's hunting and fishing rights retain a separate existence and belong only to the Uintah Band is groundless." *See, e.g., United States v. Von Murdock*, 132 F.3d 534, 541

(10th Cir. 1997); *Hackford v. Acting Phoenix Area Director*, 33 IBIA 144, 1999 WL 485041 (1999). The Utah Supreme Court's decision is in accord with the decisions of the federal courts and agencies. *State v. Reber*, 2007 WL 1189637 (Utah 2007).

Petitioners seek certiorari in the face of that authority by claiming that (i) courts holding the Uintah Band is not a separate entity do not address Petitioners' claim that the Ute Partition Act of 1954 ("UPA"), 25 U.S.C. §§ 677-677aa, expelled the Uintah Band from the Ute Tribe, (ii) courts have not determined the effect of the UPA on those born prior to the UPA and not listed on the UPA rolls, and (iii) there is an "urgent" "need for a clear interpretation of the UPA" because of "the potential for friction between the Uintah Band, the Ute Tribe, and the State of Utah." Pet. at 12. Certiorari should be denied. *First*, the language of the UPA, now more than 50 years old, and the substantial body of case law interpreting it, show that the UPA did not expel the Uintah Band. The Uintah Band remains part of the Ute Tribe. *Second*, Petitioners were born before the UPA was enacted and were properly not included on the UPA rolls because Petitioners were never members of the Uintah Band or the Ute Tribe.[2] *Third*, there is no "friction" to be resolved by the Court. The Ute Tribe and the State of Utah have a longstanding, successful

[2] Petitioners did not properly present this issue to the Utah Supreme Court; the Court did not rule on the issue; and Petitioners cannot now raise the issue on appeal. *See infra* at 12.

cooperative agreement governing their respective enforcement authority over hunting and fishing on Reservation lands and both sovereigns have jointly opposed Petitioners' claims.

REASONS FOR DENYING THE PETITION

I. PURSUANT TO WELL ESTABLISHED PRECEDENT, THE UINTAH BAND MAINTAINS NO EXISTENCE OUTSIDE OF THE UTE TRIBE.

A. The Uintah Band Merged Into The Ute Tribe.

In 1937 the "Ute Indians of the Uintah, Uncompahgre and Whiteriver Bands" adopted a tribal constitution and formed the Ute Tribe as authorized by the Indian Reorganization Act, 25 U.S.C. § 476. *See* Appendix 1-30 ("App."), Ute Tribe Constitution, at Preamble. The three bands collectively ratified the Ute Constitution by a vote of 347-12 and Secretary of the Interior Harold L. Ickes approved the Ute Constitution on January 12, 1937. App. 28-30. The Ute Constitution merged together the three bands.

> We, the Ute Indians of the Uintah, Uncompahgre and Whiteriver Bands hereafter to be known as the Ute Indian Tribe of the Uintah and Ouray Reservation, . . . do ordain and establish this Constitution of the Ute Indian Tribe of the Uintah and Ouray Reservation.

App. 1. The Ute Constitution assigns any rights held by the constituent bands, including the Uintah, to the Tribe as a whole. App. 11, Art. VI, § 4 ("Any rights and powers heretofore vested in the Tribe or bands of the Uintah and Ouray Reservation but not expressly referred to in this Constitution . . . may be exercised by the people of the Uintah and Ouray Reservation through the adoption of appropriate By-laws and constitutional amendments."). Under the Ute Constitution, the territory, rights, and jurisdiction of the three bands that joined to form the Ute Tribe are vested in the Ute Tribe and the individual bands retain no rights and powers outside the Ute Tribe. *Id.* at § 4.

B. The Uintah Band Has No Hunting And Fishing Rights Independent Of The Ute Tribe.

The Tenth Circuit Court of Appeals in *United States v. Von Murdock*, 132 F.3d 534 (10th Cir. 1997), rejected the same claims made here by Petitioners. In *Von Murdock*, children of individuals listed on the mixed-blood roll claimed to be affiliated with the Uintah Band and argued that they could hunt and fish on the Reservation. *Von Murdock*, 132 F.3d at 536, 539; Pet. at 3, 7, 9; Pet. App. 10. There, as here, they asserted that the Uintah Band possessed rights separate from the Ute Tribe. 132 F.3d at 539; Pet. at 4-5, 15. The Tenth Circuit rejected those claims as "groundless" and "untenable," *id.* at 541, because "the constitution [] makes clear":

1. "that the Bands ceased to exist separately outside the Ute Tribe,"

2. "that jurisdiction over what was formerly the territory of the Uintah Band was to be exercised by the Ute Tribe," and

3. "that the rights formerly vested in the Uintah Band were to be defined by the Ute Constitution and exercised by the Ute Tribe."

Id. Other federal courts have reached the same conclusion. *See Timpanogos Tribe v. Conway*, Civ. No. 00-734 at 10-19 (D. Utah 2005), *appeal dismissed*, Docket No. 05-4059 (10th Cir. 2005) (determining that Timpanogos Indians merged into the Uintah Band, concluding that the Uintah Band became part of the Ute Tribe, and rejecting the claim that those alleging to be Timpanogos members – a group that included three of the Petitioners – possess hunting and fishing rights independent of the Ute Tribe);[3] *Hackford v. Babbitt*, 14 F.3d 1457, 1461 (10th Cir.

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[3] *Timpanogos Tribe v. Conway*, 286 F.3d 1195 (10th Cir. 2002), does not hold that members of the Uintah Band "made out a prima facie case that they possessed the right to hunt and fish on the Reservation." Pet. at 6-7. *Conway*, a decision on interlocutory appeal, addressed only "issues of Eleventh Amendment immunity and subject matter jurisdiction." 286 F.3d at 1199. As is clear from the District Court's 2005 decision, the claims of the Timpanogos Tribe did not survive summary judgment. *Timpanogos Tribe v. Conway*, Civ. No. 00-734 at 2, 18 (holding that plaintiffs failed to support their claim to hunting and fishing rights on the Reservation.).

1994) (describing the evolution of events "from loosely-knit bands to unified Ute Tribe"). Interior's case law is in accord, *Hackford*, 33 IBIA at 146 ("the rights originally vested in the Uintah Band [were] transferred to the Ute Indian Tribe"), as is the Utah Supreme Court's, *Reber*, at *4-5 ("the Uintah [Band] no longer has a separate existence apart from the Ute Tribe").

C. The Ute Partition Act Did Not Expel The Uintah Band.

Petitioners claim the UPA expelled the Uintah Band from the Ute Tribe. Pet. at 5, 15. The UPA did not expel the Uintah Band. Cases holding that the Uintah Band has no separate existence from the Ute Tribe discussed the UPA at length, but did not find that the UPA expelled the Uintah Band. *Von Murdock*, 132 F.3d at 535-40, 541-43. Nor does Petitioners' expulsion claim square with the language or intent of the UPA.

Congress enacted the UPA in 1954 at the insistence of tribal members to "provide for the partition and distribution of the assets of the Ute Indian Tribe . . . and for the termination of Federal supervision over . . . the mixed-blood members of said tribe." 25 U.S.C. § 677; *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128, 143 (1972) ("[The UPA] was the result of proposals initiated by the tribe itself."). The UPA first divided the Ute Tribe into two groups of individuals: "Full-blood" Indians, defined as

"a member of the tribe who possesses" a certain quantum of "Ute Indian blood and [] total Indian blood," 25 U.S.C. § 677a(b), and "Mixed-blood" Indians, defined as "a member of the tribe" with a lesser quantum of Ute Indian and total Indian blood *and* those full-blood individuals who choose to be classified as "mixed-bloods," *id.* at 677a(c). Inclusion on the mixed-blood roll was not dependent upon band affiliation, §§ 677a, 677b, 677c, and 677g (defining "mixed-blood" and setting out the procedure for inclusion on the mixed-blood roll), and the courts have so held, *Hackford*, 14 F.3d at 1462 ("the roll makes no reference to band affiliation"). After the distribution of tribal assets, the Indian status of each individual on the mixed-blood list was terminated. 25 U.S.C. § 677v ("declaring that the Federal trust relationship to such individual [each individual on the mixed-blood list] is terminated"). To the extent that the mixed-blood individuals were required to act as a group after termination, they were to be represented, not by a newly created Uintah Band, but by the Affiliated Ute Citizens group ("AUC") and later by the Ute Distribution Corporation ("UDC"). *Affiliated Ute Citizens*, 406 U.S. at 143-44 (the Act provided for "the selection of authorized representatives" for the mixed-bloods, the AUC "was the product of this organizational power" and the "AUC itself created . . . [the] UDC").

Petitioners do not cite any language in the UPA or any other authority that suggests the UPA "expelled" the Uintah Band and "rendered the Uintah Band independent from the Ute Tribe." Pet. at 5, 15.

That is because there is none. The UPA terminated Indian status for certain individuals, not bands. *Affiliated Ute Citizens*, 406 U.S. at 134-35. In the face of this authority Petitioners resort to sleight of hand. They assert that "the Uintah Band has always been known throughout the Reservation as the 'Mixed-bloods,'" implying that the Ute Partition Act expelled the Uintah Band because it terminated the Indian status of "mixed-bloods." Pet. at 4. Their unsupported assertion is contrary to the plain language of the UPA. "Mixed-blood" is defined in the Act by reference to individual blood quantum and choice, with no reference to band membership.[4] Petitioners themselves admit that hundreds of Uintahs remained members of the Ute Tribe after termination of the Indian status of mixed-blood individuals in 1961. Pet. at 5 (acknowledging that over 200 Uintahs, roughly 30% of Uintah Band descendants, remained Ute Tribe members). Not only did Uintah Band descendants remain Ute Tribe members, but also individuals of Uncompahgre and Whiteriver Band derivation appeared on the official mixed-blood roll and their status as Indians was terminated. While the Indian status of many Uintah individuals was terminated,

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[4] Rather than referring to the Secretary of the Interior's official rolls, Petitioners append to their brief an unofficial roll prepared nearly ten years later. *See* Pet. App. 67-98. That unofficial roll specifically states that "band identification [was] added," making clear that the official roll includes no band affiliation identification. *See* Pet. App. 67; 21 Fed. Reg. 2208-2220.

that of many others was not and the Uintah Band remains one of the three constituent Bands of the Ute Tribe. There is no colorable basis for the "Uintah Band expulsion" claim where the UPA makes no reference to bands and where Uintah Band descendants remain Ute Tribe members after termination of the Indian status of "mixed-blood" individuals. Petitioners' contention that the UPA reconstituted the Uintah Band as a group distinct from the Ute Tribe is inconsistent with the UPA, settled judicial authority, and the historical facts on which they are based. It provides no ground for certiorari.

II. PETITIONERS ARE NOT MEMBERS OF THE UINTAH BAND, ARE NOT MEMBERS OF THE UTE TRIBE, AND ARE NOT INDIANS.

A. Petitioners Are Not Members Of The Uintah Band.

Given that the Uintah Band was one of the three bands that joined in forming the Ute Tribe and that the rights of the Uintah Band are now exercised by the Ute Tribe as a whole, *supra* at 4-10, the Ute Tribe has sole authority to make the membership determination whether Petitioners are Uintah Band members. That is so because the courts have consistently held that "a tribe has the *complete authority* to determine all questions of its own membership," *Martinez v. Southern Ute Tribe of the Southern Ute Reservation*, 249 F.2d 915, 920 (10th Cir. 1957) (emphasis added), and "[a] tribe's right to define its own membership for tribal purposes has long been recognized as

central to its existence as an independent political community," *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 72 n.32 (1978). Congress specifically endorsed the Ute Tribe's control over its membership determinations in the UPA. *See* 25 U.S.C. § 677d ("New membership in the tribe [after the publication of the UPA rolls] shall [] be controlled and determined by the constitution and bylaws of the tribe and ordinances enacted thereunder."). The Ute Tribe maintains precise census records reflecting Ute Tribe membership and derivation from each of the Ute Tribe's three constituent bands. Those official records reflect that Petitioners are not now and never have been members of either the Ute Tribe or the Uintah Band.

Petitioners' claim to be members of the Uintah Band is in any event suspect and contrary to their own prior representations. At Petitioner Reber's initial appearance before the state district court his counsel disavowed any association of Petitioners with the Uintah Band: "These aren't Uintah Utes. . . . They're not Uintah Utes, they're Timpanogos, . . . Timpanogos are not Uintah Utes. We're not making any claims as Uintah Utes." R. 578: 5-6. At the same time they were disclaiming any affiliation with the Uintah Utes in the Utah state courts, Petitioners alleged membership in the "Uinta Band of Utes" in litigation before the federal courts in the District of

Columbia.[5] R. 144. Petitioners later filed with the state district court below a "Clarification of Facts" alleging that they were "Indian[s] of Utah Territory" and that "the Shoshone Indians of Utah Territory are Indians for whom the reservation was set apart." R. 125, 126.

B. Petitioners Are Not Members Of The Ute Tribe.

Petitioners argue that their Indian status was wrongfully terminated by the UPA because they were born prior to the UPA but did not appear on the UPA rolls.[6] Pet. at 4-5, 16. The individuals listed on those rolls, however, were Tribal members prior to the UPA. *See* 25 U.S.C. § 677g. Petitioners failed to raise this claim below, but even if they had, the evidence shows that they never qualified for membership in the Tribe. Petitioners stipulated that they are 1/16 Indian by heritage, *see infra* at 14-15, and that blood quantum was never sufficient for membership under Tribal law. Beginning in 1938, the Tribe required 1/8 Ute blood quantum for membership and the requirement steadily increased to the current requirement of 5/8

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[5] Petitioners Atkins, Thunehorst, and Reber also represented themselves as belonging to the "Timpanogos Tribe" in litigation against the State of Utah. *See supra* at 6.

[6] Petitioners did not properly present this issue to the Utah Supreme Court and that Court did not rule on the issue. Consequently, the issue is not properly before this Court. *See, e.g., Adams v. Robertson*, 520 U.S. 83, 86 (1996).

Ute blood quantum. Thus, while Petitioner Reber's mother met the 1/8 blood requirement and was therefore listed on the Tribal rolls before termination, Mr. Reber and the other Petitioners were never members and never appeared on the Tribal rolls. Consequently, they properly did not appear on the UPA rolls.

In any case, the effect of the UPA on individuals, like Petitioners, who are the children of those listed on the mixed-blood roll is settled. *First*, Ute Tribe membership requirements specifically preclude from membership descendants of individuals listed on the mixed-blood roll. *See* App. 34, Ordinance 92-05, Art. IV, Sec. C(2); *Von Murdock*, 132 F.3d at 536 ("Nor can the children of a terminated mixed-blood claim membership in the tribe through their mixed-blood parent.") (quotation omitted). *Second*, as descendants of mixed-blood individuals Petitioners are not entitled to rights granted under federal statute or to the rights of tribal members. 26 Fed. Reg. 8042 ("all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable [to those listed on the mixed-blood roll] . . . and the laws of the several states shall apply . . . in the same manner as they apply to other citizens within their jurisdiction"); *Von Murdock*, 132 F.3d at 538-539, 540 ("The right of each individual to participate in the enjoyment of [tribal hunting and fishing rights] depended upon tribal membership" and descendants of the mixed-blood individuals terminated by the Ute Partition Act possess no right to hunt and

fish on the Uintah and Ouray Reservation) (quoting *Gritts v. Fisher*, 224 U.S. 640, 642 (1912)). *Third*, such individuals are subject to state criminal jurisdiction. *Gardner v. United States*, 25 F.3d 1056, 1994 WL 170780 at *3 (10th Cir. 1992) (unpublished) ("[the descendants of individuals listed on the mixed-blood roll are] subject to state criminal jurisdiction").

C. Petitioners Are Not Indians.

The Utah Supreme Court properly concluded that Petitioners can not meet the ordinary tests of Indian status. To determine Indian status for criminal jurisdiction purposes, courts utilize the two-part test set forth in *United States v. Rogers*, 45 U.S. (4 How.) 567 (1846). That test examines whether an individual (i) "has a significant degree of Indian Blood" and (ii) "is recognized as an Indian by a tribe or society of Indians or by the federal government." *See Utah v. Perank*, 858 P.2d 927, 932 (Utah 1992). Heritage derived from ancestors whose Indian status has been terminated is excluded from consideration in this examination. *See, e.g., St. Cloud v. United States*, 702 F. Supp. 1456, 1462-66 (D.S.D. 1988) ("Case law confirms the conclusion that the termination act ends the federal trust relationship with St. Cloud and subjects him to state jurisdiction.").

The Utah Supreme Court concluded that, on the basis of Petitioners' stipulated facts, they are not Indians under the *Rogers* test. Petitioners stipulated that their blood quantum was $^1/_{16}$ Indian and $^{15}/_{16}$

non-Indian. R. 364. That is not a significant quantity of Indian blood under any case, even setting aside the fact that the Indian status of the only person through whom each claims Indian blood was terminated by the UPA. R. 362 (citing cases). When, as the case law requires, that blood quantum is disregarded, Petitioners do "not have any Indian blood for the purposes of the *Rogers* analysis." R. 361. Nor, as the Utah Supreme Court held, have Petitioners been "recognized" as Indians by either the federal government or a tribe or society of Indians. *Reber*, at *4-5. Petitioners acknowledge that they are not members of any tribe recognized by the United States; Petitioners have claimed and disclaimed membership and affiliation with any number of Indian groups, *see supra* at 11-12; and they have provided no support for their present claim that they are Uintah Band members.[7] They are self-proclaimed Indians, "recognized"

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[7] When pressed by the trial court below, Petitioners refused to offer even a name by which the tribal entity to which they supposedly belong is recognized:

The Court:	[D]o you claim that he [Mr. Reber] has been recognized by an association or tribe?
Mr. Humiston:	Yes.
The Court:	What association or tribe do you –
Mr. Humiston:	The Indians of Utah Territory associated with the Uintah band.
The Court:	Is there a specific group or organization which calls themselves the Indians of Utah Territory?

(Continued on following page)

as Indians by no one other than themselves, and certainly not by the federal government or any tribe or society of Indians.

III. PETITIONERS SEEK TO DISRUPT THE SETTLED JURISDICTIONAL FRAMEWORK.

The Ute Tribe and the State of Utah have for years cooperated in implementing the jurisdictional rules set out by this Court in *United States v. Montana*, 450 U.S. 544 (1981) and *Hagen v. Utah*, 510 U.S. 398 (1994). The Ute Tribe and State of Utah have signed a cooperative agreement regarding

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Mr. Humiston:	All of them. Under that title I'm aware there are – there is – the actual relevant inquiry on this, the general for determining whether a body of people constitutes an Indian tribe are set forth in 25 – Part 83 of the Code of Federal Regulations. . . .
The Court:	Well, my – I take from what you said that there is no organization that calls themselves the Indians of Utah Territory . . . is that right?
Mr. Humiston:	No. . . . it is an organization.
The Court:	What is the name of the organization?
Mr. Humiston:	I refer to them as the Indians of Utah Territory. That's the only name that I know would apply to all of them, but I am not in a position to officially give them that name. That's simply who they are.

R. 580:18-20.

jurisdiction over hunting and fishing on the Reservation. App. at 78-94. Tribal and State authorities agree that Petitioners are subject to state jurisdiction because they are non-Indians hunting illegally on land held in fee by non-Indians. The "friction" upon which Petitioners seek certiorari simply does not exist. Pet. at 12. Petitioners' claimed need to bring an end to over 50 years of "fractious" and "protracted" litigation is similarly without support.

CONCLUSION

For the foregoing reasons the Ute Tribe requests the Court to deny the Petition for Writ of Certiorari.

Respectfully submitted this 17th day of September, 2007.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

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CONSTITUTION AND BY-LAWS OF THE UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION UTAH

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APPROVED JANUARY 19, 1937

[SEAL]

University of Utah
American West Center
Reprinted: 1989

CONSTITUTION AND BY-LAWS OF THE UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION

PREAMBLE

We, the Ute Indians of the Uintah, Uncompahgre and Whiteriver Bands hereafter to be known as the Ute Indian Tribe of the Uintah and Ouray Reservation, in order to establish a more responsible tribal organization, promote the general welfare, encourage educational progress, conserve and develop our lands and resources, and secure to ourselves and our

posterity the power to exercise certain rights of home rule, not inconsistent with the Federal, State and local laws, do ordain and establish this Constitution for the Ute Indian Tribe of the Uintah and Ouray Reservation.

ARTICLE I – TERRITORY

The Jurisdiction of the Ute Indian Tribe of the Uintah and Ouray Reservation shall extend to the territory within the original confines of the Uintah and Ouray Reservation as set forth by Executive Orders of October 3, 1861 and January 5, 1882, and by the Acts of Congress approved May 27, 1902, and June 19, 1902, and to such other lands without such boundaries as may hereafter be added thereto under any law of the United States, except as otherwise provided by law.

ARTICLE II – MEMBERSHIP

SECTION 1. The membership of the Ute Indian Tribe of the Uintah and Ouray Reservation shall consist as follows:

(*a*) All persons whose names appear on the official tribal roll as of April 15, 1988.

(*b*) After April 15, 1988, members in the Ute Indian Tribe of the Uintah and Ouray Reservation shall be limited to those persons who possess at least five-eighths (5/8) degree Ute Indian blood derived from the blood quantum of Ute Indians whose names

appear on the Full-Blood Roll of March 27, 1956, published April 5, 1956, in 21 Federal Register 2208 *et seq.*

(*c*) The blood quantum of any applicant should be determined exclusively from his or her natural parents who are enrolled members of the tribe or who were enrolled members of the tribe at the time of their death.

(*d*) All applications for membership in the tribe filed by April 15, 1988, shall not be affected by this amendment.

SEC. 2. The Tribal Business Committee shall have the power to promulgate ordinances, subject to review by the Secretary of the Interior, covering future membership and the adoption of new members.

(*a*) No property rights shall be acquired or lost through membership in this organization except as provided herein.

ARTICLE III – THE BUSINESS COMMITTEE

SECTION 1. The governing body of the Ute Indian Tribe of the Uintah and Ouray Reservation shall be a business committee, known as the Uintah and Ouray Tribal Business Committee.

SEC. 2. The Tribal Business Committee shall consist of six members, two (2) members duly elected from each of the three (3) bands of the Ute Indian

Tribe of the Uintah and Ouray Reservation, known as the Lintah, Uncompahgre and Whiteriver Bands.

SEC. 3 The members of the Tribal Business Committee shall be elected for a term of four (4) years, except at the first election, when one (1) member from each band shall be elected for a term of two (2) years; thereafter, their successors shall be elected for a term of four (4) years.

SEC. 4 The Tribal Business Committee, so organized, shall elect from within its own number (1) a chairman, (2) a vice-chairman; and from within or without, (3) a secretary, and (4) a treasurer, and such other officials and committees as may be deemed necessary.

SEC. 5 The first election of the Tribal Business Committee hereunder shall be called, held and supervised by the present Tribal Business Committee within sixty (60) days after the ratification and approval of this Constitution.

The candidate from each band receiving the highest number of votes shall hold office for a term of four (4) years, and the candidate from each band receiving the next highest number of votes shall hold office for two (2) years; thereafter, every two (2) years a Tribal Business Committeeman shall be elected from each band to represent such bands for a term of four (4) years.

After the first election, elections for the Tribal Business Committee shall be called at least sixty (60)

days prior to the expiration of the terms of office of the members of the Tribal Business Committee.

ARTICLE IV – NOMINATIONS AND ELECTIONS

SECTION 1. Any member of the Ute Indian Tribe of the Uintah and Ouray Reservation twenty-one (21) years of age or over, who has maintained a legal residence on the Uintah and Ouray Reservation for a period of one (1) year preceding the election, shall be entitled to vote and hold office.

SEC. 2. Any legal voter is eligible to serve as a member of the Tribal Business Committee.

SEC. 3. All elections shall be by secret ballot and shall be held in accordance with rules and regulations prescribed by the Tribal Business Committee, or by an election board appointed by the Tribal Business Committee.

ARTICLE V – VACANCIES AND REMOVAL FROM OFFICE

SECTION 1. If a member of the Tribal Business Committee or an elective official shall die, resign, be removed or recalled from office, permanently leave the reservation, or be found guilty of a felony or misdemeanor involving dishonesty in any Indian, State or Federal court, the position shall be declared vacant, at the discretion of the Tribal Business Committee, and they shall designate a time to hold a special election to fill the vacancy.

SEC. 2. The Business Committee may by four (4) affirmative votes, expel any member for neglect of duty or gross misconduct. Before any vote for expulsion is taken on the matter, such member or official shall be given a written statement of the charges against him at least five (5) days before the meeting of the Business Committee, before which he is to appear, and an opportunity to answer any and all charges at such designated Committee meeting. The decision of the Business Committee shall be final.

SEC. 3. Upon receipt of a petition signed by one-third of the eligible voters in any band calling for the recall of any member of the Committee representing said band, it shall be the duty of the Committee to call an election on such recall petition. No member may be recalled in any such eleciton unless at least thirty percent of the legal voters of the band which he represents shall vote at such election.

ARTICLE VI – POWERS OF THE TRIBAL BUSINESS COMMITTEE

SECTION 1. *Enumerated powers.* – The Tribal Business Committee of the Uintah and Ouray Reservation shall exercise the following powers, subject to any limitations imposed by the statutes or the Constitution of the United States, and subject further to all express restrictions upon such powers contained in this Constitution and By-laws, and subject to review by the Ute Bands themselves at any annual or special meeting:

(*a*) To negotiate with the Federal, State and local governments on behalf of the Tribe and to advise and consult with the representatives of the Interior Department on all activities of the Department that may affect the Ute Indian Tribe.

(*b*) To employ legal counsel for the protection and advancement of the rights of the Ute Indian Tribe of the Uintah and Ouray Reservation, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.

(*c*) To approve or veto any sale, disposition, lease or encumbrance of tribal lands, interest in tribal lands, or other tribal assets, which may be authorized or executed by the Secretary of the Interior, commissioner of Indian Affairs, or any other official or agency of government, provided that no tribal lands shall ever be encumbered or sold, except for governmental purposes, or leased for a period exceeding five years, except that leases for mining purposes or on irrigable land may be made for such longer periods as may be authorized by law.

(*d*) To advise the Secretary of the Interior with regard to all appropriation estimates, or Federal projects, for the benefit of the Ute Indian Tribe of the Uintah and Ouray Reservation prior to the submission of such estimates to the Bureau of the Budget and to Congress.

(*e*) To make assignments of reservation land to members of the Ute Indian Tribe of the Uintah and

Ouray Reservation in conformity with Article VIII of this Constitution.

(*f*) To regulate all economic affairs and enterprises in accordance with the terms of a Charter that may be issued to the Ute Indian Tribe of the Uintah and Ouray Reservation by the Secretary of the Interior.

(*g*) To appropriate for salaries of tribal officials or other public purposes of the Tribe any available tribal funds, provided that any such appropriation made prior to July 1, 1940, shall be subject to review by the Secretary of the Interior.

(*h*) To levy taxes upon members of the Ute Indian Tribe of the Uintah and Ouray Reservation, and to require the performance of community labor in lieu thereof, and to levy taxes and license fees, subject to review by the Secretary of the Interior, upon non-members doing business within the Reservation.

(*i*) To exclude from the territory of the Uintah and Ouray Reservation persons not legally entitled to reside therein, under ordinances which shall be subject to review by the Secretary of the Interior.

(*j*) To enact resolutions or ordinances, not inconsistent with Article II of this Constitution governing adoption and abandonment of members, and to keep at all times a correct roll of the members of the Ute Indian Tribe of the Uintah and Ouray Reservation.

(*k*) To promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Ute Indian Tribe of the Uintah and Ouray Reservation, and providing for the maintenance of law and order and the administration of justice by establishing a Reservation Indian Court and defining its duties and powers.

(*l*) To safeguard and promote the peace, safety, morals and general welfare of the Ute Indian Tribe of the Uintah and Ouray Reservation by regulating the conduct of trade and the use and disposition of property upon the Reservation, provided that any ordinance directly affecting nonmembers of the Reservation shall be subject to review by the Secretary of the Interior.

(*m*) to charter subordinate organizations for economic purposes, and to regulate the activities of co-operative associations of members of the Ute Indian Tribe of the Uintah and Ouray Reservation by ordinance, provided that any such ordinance shall be subject to review by the Secretary of the Interior.

(*n*) To regulate the inheritance of property, real and personal, other than allotted lands, within the territory of the Uintah and Ouray Reservation, subject to review by the Secretary of the Interior.

(*o*) To regulate the domestic relations of members of the Ute Indian Tribe of the Uintah and Ouray Reservation by ordinances which shall be subject to review by the Secretary of the Interior.

(*p*) To provide for the appointment of guardians for minors and mental incompetents by ordinances or resolutions which shall be subject to review by the Secretary of the Interior.

(*q*) To cultivate and preserve native arts, crafts, culture, and Indian ceremonials.

(*r*) To adopt resolutions to regulate the procedure of the Tribal Business Committee itself, and all other tribal agencies and tribal officials of the Uintah and Ouray Reservation.

(*s*) To delegate to subordinate organizations or to co-operative organizations which are open to all members of the Ute Indian Tribe of the Uintah and Ouray Reservation any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.

SEC. 2. *Manner of review.* – Any resolution. or ordinance which by the terms of this Constitution is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the Reservation who shall, within ten (10) days thereafter, approve or disapprove the same, and if such ordinance or resolution is approved, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior, who may, within ninety (90) days from the date of enactment, rescind said ordinance or resolution for any cause, by notifying the Tribal Business Committee of such action; provided that if the Superintendent shall

refuse to approve any resolution or ordinance submitted to him within ten (10) days after its enactment, he shall advise the Tribal Business Committee of his reasons therefor, and the Committee, if such reasons appear to be insufficient may refer it together with the Superintendent's objections to the Secretary of the Interior, who may pass upon same and either approve or disapprove it within ninety (90) days from its enactment.

SEC. 3. *Future powers.* – The Tribal Business Committee may exercise such further powers as may in the future be delegated to them by the Secretary of the Interior, or by any other duly authorized official or agency of the Government.

SEC. 4. *Reserved powers.* – Any rights and powers heretofore vested in the Tribe or bands of the Uintah and Ouray Reservation but not expressly referred to in this Constitution shall not be abridged by this article, but may be exercised by the people of the Uintah and Ouray Reservation through the adoption of appropriate By-laws and constitutional amendments.

ARTICLE VII – BILL OF RIGHTS

SECTION 1. All members of the Ute Indian Tribe of the Uintah and Ouray Reservation over the age of twenty-one (21) years who have maintained legal residence on the Reservation for a period of one year immediately prior to any election shall have the right to vote in all tribal elections.

SEC. 2. All members of the Ute Indian Tribe of the Uintah and Ouray Reservation shall be accorded equal opportunities to participate in the economic resources and activities of the Reservation.

SEC. 3. All members of the Ute Indian Tribe of the Uintah and Ouray Reservation may enjoy, without hindrance, freedom of speech, worship, conscience, press, assembly and association.

SEC. 4. Any member of the Ute Indian Tribe of the Uintah and Ouray Reservation accused of any offense shall have the right to a prompt, open and public hearing, with due notice of the offense charged, and shall have the right to summon witnesses on his own behalf. Trial by jury may be demanded by any prisoner accused of any offense punishable by more than thirty (30) days inprisonment. Excessive bail shall not be required, and cruel punishment shall not be imposed.

ARTICLE VIII – LAND

SEC. 1. *Allotted lands.* – Allotted lands, including heirship lands, within the Uintah and Ouray Reservation shall continue to be held as heretofore, by their present owners. It is recognized that under existing law such lands may be condemned for public purposes, such as roads, public buildings, or other public improvements, upon payment of adequate compensation, by any agency of the State of Utah, or of the Federal government, or by the Tribe itself. It is further recognized that under existing law such lands

may be inherited by the heirs of the present owner, whether or not they are members of the Ute Indian Tribe of the Uintah and Ouray Reservation. Likewise, it is recognized that under existing law the Secretary of the Interior may, in his discretion, remove restrictions upon such land, upon application by the Indian owner, whereupon the land will become subject to State taxes and may then be mortgaged or sold. The right of the individual Indian to hold or part with his land, as under existing law, shall not be abrogated by anything contained in this Constitution, but the owner of restricted land may, with the approval of the Secretary of the Interior, voluntarily convey his land to the Ute Indian Tribe of the Uintah and Ouray Reservation either in exchange for a money payment or in exchange for an assignment to cover the same land or other land, as hereinafter provided.

SEC. 2. *Tribal lands.* – The unallotted lands of the Uintah and Ouray Reservation, and all lands which may hereafter be acquired by the Ute Indian Tribe of the Uintah and Ouray Reservation or by the United States in trust for the Ute Indian Tribe of the Uintah and Ouray Reservation, shall be held as tribal lands, and no part of such lands shall be mortgaged or sold. Tribal lands shall not be allotted to individual Indians but may be assigned to members of the Ute Indian Tribe of the Uintah and Ouray Reservation, or leased, or otherwise used by the Tribe, as hereinafter provided.

SEC. 3. *Leasing of tribal lands.* – Tribal lands may be leased by the Tribal Business Committee,

with the approval of the Secretary of the Interior, for such periods of time as are permitted by law.

In the leasing of tribal lands, preference shall be given, first, to Indian co-operative associations, and, secondly, to individual Indians who are members of the Ute Indian Tribe of the Uintah and Ouray Reservation.

No lease of tribal lands to a non-member shall be made by the Tribal Business Committee unless it shall appear that no Indian co-operative association or individual member of the Tribe is able and willing to use the land and to pay a reasonable fee for such use.

Grazing permits covering tribal land may be issued by the Tribal Business Committee, with the approval of the Secretary of the Interior, in the same manner and upon the same terms as leases.

SEC. 4. *Grant of standard assignments*, – In any assignment of tribal lands which now are owned by the Tribe or which hereafter may be acquired for the Tribe by the United States or purchased by the Tribe out of tribal funds, preference shall be given to heads of families which have no allotted lands or interest in allotted lands.

No allotted member of the Tribe who may hereafter have the restrictions upon his land removed and whose land may thereafter be alienated shall be entitled to receive an assignment of land as a landless Indian.

The Tribal Business Committee may, if it sees fit, charge a fee of not to exceed five dollars ($5.00) on approval of an assignment made under this section. Assignments made under this section shall be for the primary purpose of establishing homes for landless Indians, and shall be known as standard assignments.

SEC. 5. *Tenure of standard assignments.* – If any member of the Tribe holding a standard assignment of land shall, for a period of two years, fail to use the land so assigned or shall use such land for any unlawful purpose, his assignment may be cancelled by the Tribal Business Committee after due notice and an opportunity to be heard, and the said land may be reassigned in accordance with the provisions of section 4 of this article.

Upon the death of any Indian holding a standard assignment, his heirs or other individuals designated by him, by will or by written request, shall have a preference in the reassignment of the land, provided such persons are members of the Ute Indian Tribe of the Uintah and Ouray Reservation and are eligible to receive such assignment.

SEC. 6. *Grant of exchange assignments.* – Any member of the Tribe who owns an allotment or any share of heirship land may voluntarily transfer his interest in such land to the Tribe in exchange for an assignment to the same land or other land of equal value. If the assignee prefers, he may receive, in lieu of a specific tract of land, a proportionate share in a

larger grazing unit. Assignments made under this section shall be known as exchange assignments.

Sec. 7. *Leasing of exchange assignments.* – Exchange assignments may be used by the assignee or leased by him to Indian co-operative associations, to individual members of the Tribe, or, if no individual Indian or Indian co-operative association is able and willing to rent the land at a reasonable fee, such assignment may be leased to non-members in the same manner as allotted lands.

SEC. 8. *Inheritance of exchange assignments.* – Upon the death of the holder of an exchange assignment, his interest shall be reassigned by the Tribal Business Committee to his heirs and devisees, subject to the following conditions:

(*a*) The land may not be reassigned to any heir or devisee who is not a member of the Ute Indian Tribe of the Uintah and Ouray Reservation except that a life assignment may be made to the surviving widow or widower of the holder of an assignment.

(*b*) Such lands may not be reassigned to any heir or devisee who already holds more than an economic unit of grazing land or other land or interest in lands of equal value, to be determined from time to time by the Tribal Business Committee.

(*c*) Such lands may not be subdivided among heirs or devisees into units too small for convenient management. No area of grazing land shall be subdivided into units smaller than one-hundred-sixty (160)

acres, and no area of agricultural land shall be subdivided into units smaller than two-and-one-half (2½) acres, except that land used for buildings or other improvements may be divided to suit the convenience of the parties. Where it is impossible to divide the land properly among the eligible heirs or devisees, the Tribal Business Committee may issue to the eligible heirs or devisees grazing permits or other interest in tribal lands of the same value as the assignment of the decedent.

(*d*) If there are no eligible heirs or devisees of the decedent, the land shall be eligible for reassignment in accordance with the provisions of section 4 of this article.

SEC. 9. *Inheritance of improvements.* – Improvements of any character made upon assigned land may be bequeathed to and inherited by members of the Ute Indian Tribe of the Uintah and Ouray Reservation or otherwise disposed of under such regulations as the Tribal Business Committee shall provide. No permanent improvements shall be re-moved from the land without the consent of the Tribal Business Committee.

SEC. 10. *Exchange of assignments.* – Assignments may be exchanged between members of the Ute Indian Tribe of the Uintah and Ouray Reservation by common consent in such a manner as the Tribal Business Committee shall designate.

SEC. 11. *Use of unassigned tribal land.* – Tribal land which is not assigned, including tribal timber

reserves, shall be managed by the Tribal Business Committee for the benefit of the members of the entire Tribe, and any cash income derived from such land shall accrue to the benefit of the Tribe as a whole. All action of the Tribal Business Committee with respect to such lands shall be in conformity with departmental regulations for the protection of Indian range and timber resources authorized by section 6 of the Act of June 18, 1934.

SEC. 12. Purchase of land by the tribe. – Tribal funds may be used, with the consent of the Secretary of the Interior, to acquire land, under the following conditions:

(*a*) Land within the Uintah and Ouray Reservation or adjacent to the boundaries thereof which is not now in Indian ownership may be purchased by or for the Ute Indian Tribe of the Uintah and Ouray Indian Reservation.

(*b*) Restricted lands, which are in heirship status at the time of the adoption and approval of this Constitution, may be purchased by or for the Ute Indian Tribe of the Uintah and Ouray Reservation, with the consent of all the adult heirs, and the legal guardians of minor heirs, payment therefor to be made as may be agreed upon.

(*c*) Land owned by any member of the Tribe who is over the age of sixty (60) years or who is physically incapacitated, may be transferred by its owner to the Tribe in exchange for a pension of not more than twice the annual rental value of the land for the life

of the pensioner, to be paid out of available tribal funds.

(*d*) Excess land owned by any member of the Tribe may be purchased by the Tribe, with the consent of the owner, payments to be made under such terms as may be agreed upon.

(*e*) Land owned by any member of the Tribe who desires to leave the Reservation permanently may be purchased by the Tribe, under such terms as may be agreed upon.

SEC. 13. *Method of making assignments.* – Applications for assignments shall be filed with the Secretary of the Tribal Business Committee and shall be in writing, setting forth the name of the person or persons applying for the land and as accurate a description of the land desired as the circumstances will permit. Notices of all applications received by the Secretary shall be posted by him in the agency office and in at least three other conspicuous places on the Reservation for not less than twenty (20) days before action is taken by the Tribal Business Committee. Any member of the Tribe wishing to oppose the granting of an assignment shall do so in writing, setting forth his objections, to be filed with the Secretary of the Tribal Business Committee, and may if he so desires appear before the Tribal Business Committee to present evidence. The Secretary of the Tribal Business Committee shall furnish the Superintendent or other officials in charge of the agency a complete record of all action taken by the Tribal Business

Committee on applications for assignments of land, and a complete record of assignments shall be kept in the agency office and shall be open for inspection by members of the Tribe.

The Tribal Business Committee shall draw up one or more forms for standard and exchange assignments, which shall be subject to the approval of the Secretary of the Interior.

ARTICLE IX – REFERENDUM

Upon a petition of at least one-third (⅓) of the eligible voters of the Ute Indian Tribe of the Uintah and Ouray Reservation, or upon the request of a majority of the members of the Tribal Business Committee, any enacted or proposed ordinance or resolution of the Tribal Business Committee shall be submitted to a popular referendum, and the vote of the majority of the qualified voters voting in such referendum shall be conclusive and binding on the Tribal Business Committee provided that at least thirty (30) percent of the eligible voters shall vote in such election.

ARTICLE X – AMENDMENTS

Amendments to the Constitution and By-laws may be ratified and approved in the same manner as this Constitution and By-laws. Whenever the Tribal Business Committee shall, by an affirmative vote of four or more members, call for the submission of an

amendment, the Secretary of the Interior shall call an election upon the proposed amendment. If at such election the amendment is adopted by a majority of the qualified voters of the Tribe voting thereon and if at least thirty (30) percent of those entitled to vote shall vote in such election, such amendment shall be submitted to the Secretary of the Interior and if approved by him, shall thereupon take effect.

BY-LAWS OF THE UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION

ARTICLE I – DUTIES OF OFFICERS

SECTION 1. *Chairman of the Tribal Business Committee.* – The Chairman of the Tribal Business Committee shall preside over all meetings of the Committee, shall perform all duties of a Chairman and exercise any authority delegated to him by the Committee. He shall have the privilege of voting.

SEC. 2. *Vice-Chairman of the Tribal Business Committee.* – The Vice-Chairman shall assist the Chairman when called upon so to do and in the absence of the Chairman, he shall preside. When so presiding, he shall have all the rights, privileges, duties and responsibilities of the Chairman.

SEC. 3. *Secretary of the Tribal Business Committee.* – The Secretary of the Tribal Business Committee shall conduct all tribal correspondence and shall keep an accurate record of all matters transacted in Tribal Business Committee meetings. It shall be his duty to

submit promptly to the Superintendent of the jurisdiction and the Commissioner of Indian Affairs copies of all minutes of regular and special meetings of the Tribal Business Committee.

SEC. 4. *Treasurer of the Tribal Business Committee.* – The Treasurer of the Tribal Business Committee shall accept, receive, receipt for, preserve, and safeguard all funds in the custody of the Tribal Business Committee, whether same be tribal funds or special funds for which the Tribal Business Committee is acting as trustee or custodian. He shall deposit all such funds in such bank or elsewhere as directed by the Tribal Business Committee and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession or custody, such report being made in writing to the Tribal Business Committee at regular meetings and at such other times as requested by the Tribal Business Committee.

He shall not pay out or otherwise disburse any funds in his possession or custody, or in the possession or custody of the Tribal Business Committee, except when properly authorized so to do by resolution duly passed by the Tribal Business Committee.

The books and records of the Treasurer shall be audited at least once each year by a competent auditor employed by the Tribal Business Committee and at such other times as the Tribal Business Committee or the Commissioner of Indian Affairs may direct.

The Treasurer shall be required to give a bond satisfactory to the Tribal Business Committee and to the Commissioner of Indian Affairs.

The Treasurer shall be present at all special and regular meetings of the Tribal Business Committee.

SEC. 5. *Appointive officers.* – The duties of all appointive committees or officers of the Ute Indian Tribe of the Uintah and Ouray Reservation shall be clearly defined by resolution of the Tribal Business Committee at the time of their creation or appointment. Such committees and officers shall report from time to time as required by the Tribal Business Committee, and their activities and decisions shall be subject to review by the Tribal Business Committee upon petition of any person aggrieved.

ARTICLE II – QUALIFICATIONS OF COMMITTEEMEN

No person shall be a candidate for membership in the Tribal Business Committee unless he shall be a member of the Ute Indian Tribe of the Uintah and Ouray Reservation and shall have resided in the territory thereof for a period of one year next preceding the election and be at least twenty-one (21) years of age.

ARTICLE III – CERTIFICATION OF ELECTION

It shall be the duty of the members of the Tribal Business Committee to certify to the election of duly elected committee members. This shall be done

within five days after the election and a certificate filed with the Secretary of the Business Committee.

ARTICLE IV – INSTALLATION OF COMMITTEEMEN

Newly elected members who have been duly certified, shall be installed at the first regular meeting of the Tribal Business Committee following the election, upon subscribing to the following oath:

"I _____, do solemnly swear (or affirm) that I shall support and uphold the Constitution of the United States, the Constitution and laws of the State of Utah, and the Constitution and By-laws and Ordinances of the Ute Indian Tribe of the Uintah and Ouray Reservation in the State of Utah; that I shall in all respects faithfully and fully perform the duties of my office as a member of the Tribal Business Committee for the Ute Indian Tribe of the Uintah and Ouray Reservation, so help me God."

The oath may be taken and subscribed to before the Superintendent or any other person authorized to administer oath in the State of Utah.

ARTICLE V – SALARIES

The Tribal Business Committee may prescribe such salaries of officials or Tribal Business Committee members as it deems advisable from such funds as may be available.

ARTICLE VI – TIME, PLACE, AND PROCEDURE OF REGULAR MEETINGS

SECTION I. *Meetings.* – Regular meetings of the Tribal Business Committee shall be held on the second Monday of each month at Fort Duchesne, Utah, at a designated building or hall where official records will be kept. Special meetings may be called by written notice duly served on each committee member a reasonable time before said meeting, signed by the Chairman or by a majority of the Tribal Business Committee members, and when so called, the Tribal Business Committee shall have the power to transact business as in regular meetings.

SEC. 2. *General tribal meetings.* – There shall, on the first Wednesday in November, be an annual meeting open to all members of the Ute Indian Tribe of the Uintah and Ouray Reservation held at a designated place which shall be approved by the Tribal Business Committee.

It shall be the duty of the Chairman at this meeting to make a report of all activities of the Tribal Business Committee throughout the year, and to outline the proposed plans for economic and social betterment of the Tribe.

Special tribal meetings may be called by the Chairman of the Tribal Business Committee, provided that due notice is posted throughout the Reservation at least thirty (30) days prior to such meeting.

Fifty (50) legal voters of the Tribe, may, at any time, by written petition, call a general meeting, provided that at least fifteen (15) days notice is posted throughout the Reservation.

SEC. 3. *Quorum.* – No tribal business shall be transacted unless a quorum is present.

A quorum of the Tribal Business Committee shall consist of four (4) members of the Tribal Business Committee.

A quorum of the general tribal meeting shall consist of not less than seventy-five (75) voters at the annual meeting, and seventy (70) voters at a special meeting.

SEC. 4. *Order of business.* – The following order of business is established for all meetings:

1. Call to order by the Chairman.
2. Roll call.
3. Ascertainment of a quorum.
4. Reading the Minutes of last meeting.
5. Adoption of Minutes by vote or common consent.
6. Unfinished business.
7. New business.
8. Adjournment.

SEC. 5. *Ordinances and resolutions.* – All final decisions of the Tribal Business Committee on matters

of general and permanent interest to the members of the Ute Indian Tribe of the Uintah and Ouray Reservation shall be embodied in ordinances. Such ordinances shall be collected and published from time to time for the information and education of the members of the Tribe.

All final decisions of the Tribal Business Committee on matters of temporary interest (such as acting on reservation budget for a single year, or petitions to Congress or to the Secretary of the Interior) or relating especially to particular individuals or officers (such as adoption of members, instructions for tribal employees, or rules of order for the Tribal Business Committee) shall be embodied in resolutions. Such resolutions shall be recorded in a special book and shall be open to public inspection.

All questions of procedure (such as acceptance of committee reports, invitations to outsiders to speak) shall be decided by motion duly passed, or by ruling of the Chairman if no opposition is heard. In all ordinances, resolutions or motions, the Tribal Business Committee may act by a majority vote, but all matters of importance shall be fully discussed and a reasonable attempt made to secure unanimous agreement, and parliamentary procedure shall otherwise be governed by Robert's Rules of Order.

SEC. 6. *Legislative forms.* – Every ordinance shall begin with the words, "*Be it enacted by the Uintah and Ouray Tribal Business Committee* * * *."

Every resolution shall begin with the words, "*Be it resolved by the Uintah and Ouray Tribal Business Committee, * * * .*"

ARTICLE VII – RATIFICATION OF CONSTITUTION AND BY-LAWS

This Constitution and By-laws attached hereto shall be in full force and effect whenever a majority of the adult voters of the Uintah, Uncompahgre and Whiteriver Bands of the Uintah and Ouray Reservation, voting at an election called by the Secretary of the Interior in which at least thirty (30) percent of the eligible voters shall vote, shall have ratified such Constitution and By-laws and the Secretary of the Interior shall have approved same, as provided in the Act of June 18, 1934, as amended by the Act of June 15, 1935.

CERTIFICATION OF ADOPTION

Pursuant to an order, approved November 20, 1936, by the Secretary of the Interior, the attached Constitution and By-laws was submitted for ratification to the Ute Indians of the Uintah, Uncompahgre and Whiteriver Bands of the Uintah and Ouray Reservation and was on December 19, 1936, duly adopted by a vote of 347 for, and 12 against, in an election which over 30 percent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934, (48

Stat. 984), as amended by the Act of June 15, 1935, (49 Stat. 378).

ROY SMITH,
Chairman of Election Board.
ORAN CURRY,
Chairman of Tribal Business Committee.
ROBERT L. BENNETT,
Secretary.

C.C. Wright,
Superintendent in charge of the Reservation.

I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Constitution and By-laws of the Ute Indian Tribe, of the Uintah and Ouray Reservation.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution and By-laws are hereby declared inapplicable to these Indians.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and By-laws.

Approval recommended: January 12, 1937.

WILLIAM ZIMMERMAN, JR.,
Acting Commissioner of Indian Affairs.

HAROLD L. ICKES,
Secretary of the Interior.
[SEAL]

WASHINGTON, D. C., *January 19, 1937*

Ordinance No. 92 92-05

Uintah & Ouray Agency
Fort Duchesne, Utah

ENROLLMENT ORDINANCE OF THE UTE INDIAN TRIBE

BE IT ENACTED BY THE UINTAH AND OURAY TRIBAL BUSINESS COMMITTEE OF THE UTE INDIAN TRIBE by virtue of its inherent authority as a sovereign Indian tribe, as recognized and confirmed by the Act of Congress of June 18, 1934, 48 Stat. 984, 25 U.S.C. §§ 461 *et seq.*, and pursuant to its power to promulgate ordinances, subject to review by the Secretary of the Interior, covering future membership and the adoption of new members as set forth at Article II, Section 2 of the Constitution of the Ute Indian Tribe of the Uintah and Ouray Reservation, that it hereby establishes the procedures and rules for acquiring, retaining and forfeiting membership in the Ute Indian Tribe.

ARTICLE I
DECLARATION OF PURPOSE

Subject to the review powers of the Secretary of the Interior, the Business Committee is empowered to enact ordinances governing enrollment and adoption into and abandonment of membership in the Tribe. *See,* Article II, Section 2 and Article VI, Section 1(j) of the Constitution of the Ute Indian Tribe of the Uintah and Ouray Reservation. There being at this time no

general ordinance governing enrollment procedures and rules for the Tribe, the Business committee deems it appropriate and necessary that a tribal mechanism exist to govern and guide the submittal of membership applications and the granting or denial of the same.

ARTICLE II
SAVINGS CLAUSE

All applications for membership in the Tribe duly and properly filed with the Clerk on or before the effective date of this Ordinance shall be unaffected by the terms hereof, and shall be acted upon in accordance with those requirements for membership of the Tribe in effect on the date of the application's filing.

ARTICLE III
DEFINITIONS

"*Applicant*" means every person who seeks enrollment in the Tribe pursuant to the terms of this Ordinance, and includes the parent or legal guardian of a minor or of an incompetent person seeking enrollment in the Tribe.

"*Business Committee*" means the Uintah and Ouray Tribal Business Committee of the Ute Indian Tribe.

"*Clerk*" means the Clerk of the Vital Statistics Office of the Tribe or such other employee of the Tribe

as may be designated to perform the duties set forth in this Ordinance.

"*Effective Date*" means the date on which this Ordinance is approved by the Secretary of the Interior or his duly authorized representative.

"*Tribe*" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

"*Tribal Court*" means the Tribal Court of the Ute Indian Tribe of the Uintah and Ouray Reservation, as established in Chapter 3 of Title 1 of the Law and Order Code of the Tribe, and shall include any appellate tribunals of such Tribal Court.

ARTICLE IV
MEMBERSHIP REQUIREMENTS AND STANDARDS

A. *Continuation of Enrollment* – Every person duly and properly enrolled as a member of the Tribe on the effective date of this Ordinance shall continue to be a member of the Tribe without further action being required on the part of the member or the Business Committee.

B. *Membership Eligibility* – No person shall be enrolled as a member of the Tribe unless such person:

1. Is the natural offspring of an enrolled member of the Tribe; and

2. Possesses at least a five-eights (5/8) degree of Ute Indian blood of the Tribe derived from

his/her natural parents who are enrolled members of the Tribe.

C. *Quantification of Blood Quantum* – An applicant's degree of blood of the Tribe shall be calculated by determining the blood quantum of the applicant's natural parents who are members of the Tribe, adding the total degree of blood of the Tribe possessed by the applicant's natural parents and thereafter dividing such total by two (2). An applicant shall not be permitted to calculate his/her blood quantum by relying on:

1. Indian blood derived from any Indian tribe other than that of the Tribe.

2. Indian blood or blood of the Tribe derived from any person who appears on the Mixed-Blood roll of March 27, 1956, published April 5, 1956, 21 Fed. Reg. 2208 *et seq.*

3. The Indian blood quantum of a natural parent who for any reason is not a duly enrolled member of the Tribe.

D. *Blood Quantum of Existing Members* – Absent conclusive evidence of fraud, every person whose name appears on the membership roll of the Tribe on the effective date of this Ordinance shall be conclusively presumed to possess that degree of blood of the Tribe listed on that roll with their name.

E. *Dual Enrollment* – The other sections of this Ordinance notwithstanding, no person may be enrolled in the Tribe or remain a member thereof if such

person is an enrolled member of any other Indian tribe, band or group that possesses a government-to-government relationship with the United States.

F. *Adoption* – There shall be no adoption into the Tribe. The process of enrolling in the Tribe shall be the exclusive standard and procedure for any person to gain rights to tribal membership or tribal assets.

ARTICLE V
DATE AND RIGHTS OF MEMBERSHIP

A. *Date Membership Deemed Effective* – No person or applicant shall acquire any rights to tribal property, entitlements to tribal funds or privileges of tribal membership until such person or applicant has filed an application for membership with the Clerk *and* has been accepted into membership by resolution of the Business Committee.

B. *Apportionment of Rights* – Benefits and rights related to membership in the Tribe are not apportionable over time and such benefits and rights continue only during the duration of a member's life.

ARTICLE VI
APPLICATIONS FOR MEMBERSHIP

A. *Application* – Any person wishing to apply for membership in the Tribe shall submit his/her enrollment application on a form designed for that

purpose acquired from the Clerk. Applications for membership in the Tribe shall:

1. In the case of a minor or an incompetent person, be made on the applicant's behalf by the applicant's parent or legal guardian.

2. Be signed by the applicant, or in the case of minors or incompetent persons the applicant's parent or legal guardian, who shall certify to the truthfulness of the claims and information submitted on the applications or as attachments or exhibits thereto.

3. Be accompanied by certified copies of all necessary supporting documentation, *e.g.,* birth certificates, records of the Bureau of Indian Affairs and Proof of Paternity, and such further evidence as may be requested by the Clerk.

B. *Submittal of Application* – All applications for enrollment in the Tribe shall be submitted to the Clerk, who shall note thereon the date of the application's filing. In the event the application submitted to the Clerk is incomplete or otherwise in need of additional documentation, the date of the application's filing shall be deemed to be that date on which the applicant supplies to the Clerk *all* additional documentation or evidence required by him/her to evaluate the applicant's eligibility for membership in the Tribe.

ARTICLE VII
ENROLLMENT PROCEDURE

A. *Burden of Proof* – The burden of proof of eligibility for membership in the Tribe rests solely on the applicant or others acting on the applicant's behalf.

B. *Processing of Applications* – Following receipt of an enrollment application for the Tribe, the Clerk shall:

1. Review the application and supporting documentation to determine whether there is sufficient verified evidence to determine the applicant's eligibility for membership in the Tribe.

2. If there is insufficient evidence for the Clerk to make a decision on an applicant's eligibility for membership in the Tribe, the Clerk shall notify the person submitting the application that the same will not be processed further unless and until such additional evidence is provided to him/her.

3. When in the opinion of the Clerk there exists sufficient evidence on which to determine an applicant's eligibility for membership, the Clerk shall:

a. within sixty (60) days of receipt of the application, prepare a written evaluation and recommendation as to the applicant's eligibility for membership in the Tribe; and

b. submit the evaluation, recommendation and original application and supporting

documentation to the Business Committee, with a copy thereof being promptly supplied to the applicant or those acting on the applicant's behalf.

C. *Consideration of Applications* – The Business Committee shall establish a schedule of meetings to decide whether applicants will be accepted into membership in the Tribe. Such meetings shall occur on not less than a monthly basis, if there exist enrollment applications to be acted upon, and decisions on membership applications shall be governed by the following procedures:

1. All persons whose applications for membership for membership are to be considered at a meeting of the Business Committee shall be given not less than ten (10) days notice of the meeting on their application by first class mail addressed to the applicant or the person acting on the applicant's behalf.

2. The Secretary of the Business Committee shall keep written minutes of the proceedings on membership applications and of the vote taken on each application.

3. No decision of the Business Committee either approving or denying a person's enrollment in the Tribe or otherwise disposing of an enrollment matter shall be final unless made by a majority of a quorum of the Business Committee.

4. Final enrollment decisions of the Business Committee shall be embodied in a written resolution of

that body signed by not less than the presiding officer of the Business Committee.

a. Resolutions containing decisions on membership applications shall be prepared and certified by the Clerk within five (5) days after the Business Committee meeting at which a vote was taken on the resolution.

b. Resolutions denying membership in the Tribe to an applicant shall state with reasonable clarity the reason(s) for the denial.

D. *Notice of Action* – Within ten (10) days of a Business Committee meeting at which action was taken on an enrollment application, the Clerk shall send a notice by United States mail to the applicant, or those acting on the applicant's behalf, of the action taken by the Business Committee. Whenever an application for membership in the Tribe has been denied by the Business Committee, the notice shall also contain the reason(s) for the denial and shall inform the applicant of his/her opportunity for a reconsideration of the application.

ARTICLE VIII
DISENROLLMENT

A. *Report of Clerk* – In the event the Clerk shall determine that a member of the Tribe has been enrolled through fraud or is an enrolled member of any other Indian tribe, the Clerk shall promptly prepare a report of his/her findings and forward the

same to the Business Committee for action. The Clerk shall also provide to the member the subject of the report a copy thereof by United States mail.

B. *Action of Business Committee* – On receipt of a report from the Clerk that a member of the Tribe is dually enrolled or acquired his/her membership in the Tribe through fraud, the Business Committee shall schedule a hearing to determine if such member is to be disenrolled from the Tribe. All meetings where disenrollment of a member are to be considered shall be governed by the following procedures:

1. That person who is the object of the disenrollment hearing shall be given not less than ten (10) days notice of the hearing at which his/her disenrollment will be considered by first class mail addressed to the member or if a minor or an incompetent person, to the parent or legal guardian of such member.

2. The Secretary of the Business Committee shall keep written minutes of the proceedings on the disenrollment matter and of the vote on taken on the disenrollment.

3. No decision of the Business Committee disenrolling a member of the Tribe shall be final unless made by a majority of a quorum of the Business Committee.

4. Final disenrollment decisions shall be embodied in a written resolution of the Business

Committee signed by not less than the presiding officer of that body.

a. Resolutions disenrolling a member of the Tribe shall be prepared and certified by the Clerk within five (5) days after the Business Committee hearing at which a vote was taken on the resolution.

b. Resolutions disenrolling a member of the Tribe shall state with reasonable clarity the reason(s) for the disenrollment action.

C. *Notice of Disenrollment* – Within ten (10) days of a Business Committee hearing at which a vote for disenrollment was taken, the Clerk shall send a notice by United States mail to the member the subject of the disenrollment, or those who acted on the disenrolled member's behalf, that he/she is no longer a member of the Tribe. The notice shall also contain the reason(s) for the disenrollment action and shall inform the member or those acting on the member's behalf of his/her opportunity for a reconsideration of the disenrollment action.

ARTICLE IX
FINALITY OF BUSINESS COMMITTEE DECISION

Enrollment and disenrollment decisions of the Business Committee shall be final and non-reviewable by the Tribal Court; *provided,* that an unsuccessful applicant or disenrolled member may

seek one (1) reconsideration of his/her rejection for membership or disenrollment before the Business Committee if such request for reconsideration is made in written form and filed with the Clerk within sixty (60) days of the applicant's receipt of his/ her notice of rejection for membership or disenrollment from membership in the Tribe.

ARTICLE X
MISCELLANEOUS PROVISIONS

A. *Duties of Clerk* – In addition to those duties set forth elsewhere herein, the Clerk shall:

1. Assign an enrollment number to each applicant accepted into membership in the Tribe by action of the Business Committee.

2. Maintain a membership roll that lists, for each member of the Tribe, their name, sex, enrollment number, date of acceptance into membership, date of birth, date of death and to the greatest extent possible, the degree of blood of the Tribe possessed by the member.

3. Provide to the Superintendent of the Uintah and Ouray Agency, Bureau of Indian Affairs, certified copies of all resolutions of the Business Committee approving or denying enrollment applications and disenrolling members of the Tribe.

B. *Effect of Ordinance* – This Ordinance repeals and supersedes all prior ordinances of the Tribe

relating to the procedures and requirements for membership in the Tribe.

C. *Severability* – Should any part or any application of this Ordinance be held invalid, the remainder of this Ordinance and its applications to other situations, persons or applicants shall not be effected.

CERTIFICATION

I hereby certify that the above Ordinance was adopted by the Uintah and Ouray Tribal Business Committee at a Regular Business Committee Meeting, held in Ft. Duchesne, Utah on the 10th day of September, 1992, by a vote of 5 for and 0 against and 0 abstaining.

/s/ Dana West
Chris Bigler/Dana West, Secretary
Uintah and Ouray Tribal
Business Committee

SUBCHAPTER XXVIII-UTE INDIANS OF UTAH: DISTRIBUTION OF ASSETS BETWEEN MIXED-BLOOD AND FULL-BLOOD MEMBERS; TERMINATION OF FEDERAL SUPERVISION OVER PROPERTY OF MIXED-BLOOD MEMBERS

§ 677. Purpose

The purpose of this subchapter is to provide for the partition and distribution of the assets of the Ute Indian Tribe of the Uintah and Ouray Reservation in Utah between the mixed-blood and full-blood members thereof; for the termination of Federal supervision over the trust, and restricted property, of the mixed-blood members of said tribe; and for a development program for the full-blood members thereof, to assist them in preparing for termination of Federal supervision over their property.

(Aug. 27, 1954, ch. 1009, § 1, 68 Stat. 868.)

Repeal of Inconsistent Laws

Section 29 of act Aug. 27, 1954, provided that:" All Acts or parts of Acts, inconsistent with this Act [this subchapter] are hereby repealed insofar as they affect the tribe or its members."

Separability

Section 30 of act Aug. 27, 1954, provided that: "If any provision of this Act [this subchapter], or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of

such provision to other persons or circumstances shall not be affected thereby."

§ 677a. Definitions

For the purposes of this subchapter –

(a) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah.

(b) "Full-blood" means a member of the tribe who possesses one-half degree of Ute Indian blood and a total of Indian blood in excess of one-half, excepting those who become mixed-bloods by choice under the provisions of section 677c of this title.

(c) "Mixed-blood" means a member of the tribe who does not possess sufficient Indian or Ute Indian blood to fall within the full-blood class as herein defined, and those who become mixed-bloods by choice under the provisions of section 677c of this title.

(d) "Secretary" means Secretary of the Interior.

(e) "Superintendent" means the Superintendent of the Uintah and Ouray Reservation, Utah.

(f) "Asset" means any property of the tribe, real, personal or mixed, whether held by the tribe or by the United States in trust for the tribe, or subject to a restriction against alienation imposed by the United States.

(g) "Adult" means a member of the tribe who has attained the age of twenty-one years.

(Aug. 27, 1954, ch. 1009, § 2, 68 Stat. 868.)

§ 677b. Method of determining Ute Indian blood

For the purposes of this subchapter Ute Indian blood shall be determined in accordance with the constitution and bylaws of the tribe and all tribal ordinances in force and effect on August 27, 1954.

(Aug. 27, 1954, ch. 1009, § 3, 68 Stat. 868.)

§ 677c. Transfer of members from full-blood roll to mixed-blood group; time; certification by Secretary

Any member of the tribe whose name appears on the proposed roll of full-blood members as provided in section 677g of this title and any person whose name is added to such proposed roll as the result of an appeal to the Secretary may apply to the Superintendent to become identified with and a part of the mixed-blood group: *Provided*, That such application is made within thirty days subsequent to the publication of such proposed roll or in the event of an appeal within thirty days subsequent to notification of the decision on said appeal: *And provided further*, That before such transfer is made upon the official rolls the Secretary shall first certify that, in his opinion, such change in status is not detrimental to the best interest of the person seeking such change.

(Aug. 27, 1954, ch. 1009, §4, 68 Stat. 868.)

§ 677d. Restriction of tribe to full-blood members after publication of final rolls; non-interest of mixed-blood members; new membership

Effective on the date of publication of the final rolls as provided in section 677g of this title the tribe shall thereafter consist exclusively of full-blood members. Mixed-blood members shall have no interest therein except as otherwise provided in this subchapter. New membership in the tribe shall thereafter be controlled and determined by the constitution and bylaws of the tribe and ordinances enacted thereunder.

(Aug. 27, 1954, ch. 1009, § 5, 68 Stat. 868; Aug. 2, 1956, ch. 880, § 1, 70 Stat. 936.)

AMENDMENTS

1956 – Act Aug. 2, 1956, provided for control and determination of new membership in the tribe in accordance with the constitution and bylaws of the tribe and ordinances enacted thereunder.

§ 677e. Organization of mixed-blood members; constitution and bylaws; representatives; actions in absence of organization

The mixed-blood members of the tribe, including those residing on and off the reservation, shall have the right to organize for their common welfare, and may adopt an appropriate constitution and bylaws which shall become effective when ratified by a majority vote of the adult mixed-blood members of

the tribe at a special election authorized and called by the Secretary under such rules and regulations as he may prescribe. Such constitution may provide for the selection of authorized representatives who shall have power to take any action that is required by this subchapter to be taken by the mixed-blood members as a group: *Provided*, That nothing herein contained shall be construed as requiring said mixed-blood Indians to so organize if such organization is by them deemed unnecessary. In the event no such approved organization is effected, any action taken by the adult mixed-blood members, by majority vote, whether in public meeting or by referendum, but in either event, after such notice as may be prescribed by the Secretary, shall be binding upon said mixed-blood members of the tribe for the purposes of this subchapter.

(Aug. 27, 1954, ch. 1009, § 6, 68 Stat. 868.)

§ 677f. Employment of legal counsel for mixed-blood members; fees

The mixed-blood members of the tribe as a group may employ legal counsel to accomplish the legal work required on behalf of said group under the terms of this subchapter, and for any other purpose by them deemed necessary or desirable; the choice of counsel and fixing of fees to be subject to the approval of the Secretary until Federal supervision over all of the members of said group and their property is terminated in the manner provided in section 677o of this title.

(Aug. 27, 1954, ch. 1009, § 7, 68 Stat. 869.)

§ 677g. Membership rolls of full-blood and mixed-blood members; preparation and initial publication; appeal from inclusion or omission from rolls; finality of determination; final publication; inheritable interest; future membership

The tribe shall have a period of thirty days from August 27, 1954 in which to prepare and submit to the Secretary a proposed roll of the full-blood members of the tribe, and a proposed roll of the mixed-blood members of the tribe, living on August 27, 1954. If the tribe fails to submit such proposed rolls within the time specified in this subchapter, the Secretary shall prepare such proposed rolls for the tribe. Said proposed rolls shall be published in the Federal Register, and in a newspaper of general circulation in each of the counties of Uintah and Duchesne in the State of Utah. Any person claiming membership rights in the tribe, or an interest in its assets, or a representative of the Secretary on behalf of any such person, within sixty days from the date of publication in the Federal Register, or in either of the papers of general circulation, as hereinbefore provided, whichever publication date is last, may file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from either of such proposed rolls. The Secretary shall review such appeals and his decisions thereon shall be final and conclusive. After disposition of all such appeals to the Secretary, and after all transfers have been made pursuant to section 677c of this title the roll of the full-blood members of the tribe, and the roll of the mixed-blood members of the tribe, shall be published

in the Federal Register, and such rolls shall be final for the purposes of this subchapter, but said sections shall not be construed as granting any inheritable interest in tribal assets to full-blood members of the tribe or as preventing future membership in the tribe, after August 27, 1954, in the manner provided in the constitution and bylaws of the tribe.

(Aug. 27, 1954, ch. 1009, § 8, 68 Stat. 869; Aug. 2, 1956, ch. 880, § 2, 70 Stat. 936.)

AMENDMENTS

1956 – Act Aug. 2, 1956, prohibited constructions of this subchapter granting inheritable interest in tribal assets to full-blood members of the tribe or preventing future membership in the tribe in accordance with its constitution and bylaws.

§ 677h. Sale or other disposition of certain described lands; funds; relief of United States from liability; assigned lands

The business committee of the tribe for and on behalf of the full-blood members of said tribe, and the duly authorized representatives for the mixed-blood members of said tribe, acting jointly, are authorized, subject to the approval of the Secretary, to sell, exchange, dispose of, and convey to any purchaser deemed satisfactory to said committee and representatives, any or all of the lands of said tribe described as follows, to wit:

Description	Section	Acres
Township 1 North, Range 1 East:		
NW/4 SW/4	35	40.00
Township 1 North, Range 1 West:		
W/2 NE/4	20	80.00
SE/4 SW/4	21	40.00
NE/4 NW/4; N/2 SW/4	28	120.00
Total		240.00
Township 2 North, Range 1 West:		
E/2 SW/4 NE/4	35	20.00
Township 1 South, Range 1 West:		
NW/4 SE/4	6	40.00
Lot 3	7	40.51
S/2 NE/4; NE/4 SE/4; W/2 SW/4 NW/4; W/2 NW/4 SW/4	16	160.00
E/2 SE/4	17	80.00
E/2 NE/4	20	80.00
SE/4 SE/4	29	40.00
Lot 2	30	40.26
SW/4 NW/4; SW/4 SE/4	35	80.00
SW/4 NE/4	36	40.00
Total		600.77
Township 1 South, Range 2 West:		
NW/4 SW/4	12	40.00
S/2 NE/4; N/2 SE/4	14	160.00
Total		200.00

Township 1 South, Range 3 West:		
SW/4 E/4	8	40.00
NW/4S NW/4	16	40.00
Total		80.00
Township 1 South, Range 8 West:		
W2/ SW4	3	80.00
NE/4 SE/4	4	40.00
All	5	721.00
All	6	695.40
NE/4 NW/4	10	40.00
NE/4 SW/4	12	40.00
SW/4 NW/4	14	40.00
Total		1,656.40
Township 2 South, Range 1 West:		
S/2 SW/4; SE/4 SE/4	1	120.00
Lot 3; SE/4 NW/4	4	81.28
Lots 1 & 2; E/2 NW/4; W/2 NE/4	7	237.78
NW/4 NW/4	12	40.00
SE/4 NE/4	13	40.00
Total		519.06
Township 2 South, Range 1 East:		
Lot 2; SE/4 NW/4	18	79.71
Township 2 South, Range 2 West:		
S/2 S/2	2	160.00
N/2	12	320.00
Total		480.00

Township 2 South, Range 3 West:		
E/2 NE/4	17	80.00
NE/4 SW/4; S/2 SE/4	19	120.00
NW/4 SW/4	29	40.00
Lots 1 & 2; E/2 NW/4; NE/4	30	316.36
Lot 2; SE14 NW14	31	78.40
Total		634.76
Township 2 South, Range 4 West:		
SW/4 SW/4	1	40.00
SE/4 SW/4; SW/4 SE/4	9	80.00
W/2 NE/4	16	80.00
NE/4	28	160.00
N/2 SE/4	32	80.00
Lots 3 & 4; N/2 SW/4	33	167.31
NE/4 SW/4; N/2 SE/4; Lots 1 & 2	36	200.46
Total		807.77
Township 2 South, Range 5 West:		
NW/4	10	160.00
NE/4 NE/4	29	40.00
N/2 NE/4; SE/4 NE/4	33	120.00
W/2 NW/4; SE/4 NW/4; N/2 SW/4; SE/4 SW/4; S/2 SE/4	34	320.00
NW/4 SE/4	36	40.00
Total		680.00
Township 2 South, Range 7 West:		
NE/4 SE/4; SW/4 SW/4	13	80.00
NE/4 NE/4; SW/4 NW/4; N/2 SW/4; SE/4 SW/4; W/2 SE/4;	14	320.00
SE/4 SE/4	15	120.00
W/2 NE/4; SE/4 NE/4		

N/2 NE/4	23	80.00
N/2 N/2; SE/4 NE/4	24	200.00
Total		800.00
Township 2 South, Range 8 West:		
SE/4 SW/4	31	40.00
Township 3 South, Range 1 East:		
Lot 2; SE/4 NW/4; S/2 NE/4	7	158.12
N/2 SW/4; SW/4 NE/4; NW/4 SE/4	16	160.00
Lots 1, 2 & 3; NE/4 SW/4	18	155.35
E/2 NE/4	30	80.00
Total		553.47
Township 3 South, Range 2 East:		
Lot 8	6	35.49
SW/4 SW/4	25	40.00
SE/4 NW/4; E/2 SW/4	36	120.00
Total		195.49
Township 3 South, Range 1 West:		
N/2 SE/4	3	80.00
Lots 1-8, Incl	22	331.46
Lots 1-4, Incl.; S/2 N/2	23	338.28
Lots 1-4, Incl.; S/2 N/2	24	341.20
W2 SE/4	25	80.00
Total		1,170.94
Township 3 South, Range 2 West:		
S/2 S/2	9	160.00
S/2 SE/4	7	80.00
SW/4 SW/4	8	40.00
W/2 SW/4	15	80.00
NE/4 SW/4; NW/4; SE/4	16	360.00
SW/4 SW/4	17	40.00

NE/4 NE/4	18	40.00
N/2 NE/4	21	80.00
N/2 NW/4	24	80.00
W/2 SW/4	33	80.00
Total		1,040.00
Township 3 South, Range 3 West:		
S/2 NW/4; NE/4 SW/4; N/2 SE/4	2	200.00
NW/4 SE/4; N/2 SW/4	17	120.00
All (Lots 1-4, Incl., E/2 W/2; E/2)	19	633.87
SW/4 SW/4	20	40.00
E/2 SW/4	21	80.00
N/2 NW/4; S/2 NE/4; NE/4 SE/4	29	200.00
W/2 NE/4; NE/4 NW/4; Lot 1	30	158.66
Total		1,432.53
Township 3 South, Range 4 West:		
SW/4 NW/4	11	40.00
S/2 SE/4; SE/4 SW/4; N/2 S/2	13	280.00
NE/4; NE/4 NW/4	24	200.00
SE/4 NE/4; W/2 NE/4; E/2 NW/4	26	200.00
E/2 NE/4	30	80.00
Total		800.00
Township 3 South, Range 5 West:		
Lots 1 & 2; SE/4 NE/4	3	118.86
Lot 4; SW/4 NW/4; W/2 SW/4; SE/4 SW/4	2	199.58
S/2 NE/4; N/2 SE/4	5	160.00
NW/4; W/2 NE/4; NE/4 SW/4; NW/4 SE/4	11	320.00
W/2 E/2	12	160.00

E/2 NE/4	13	160.00
W/2 E/2	21	160.00
SW/4 NW/4; N/2 SW/4; SW/4 SW/4	34	80.00
Total		1,358.44
Township 3 South, Range 7 West:		
Lots 3 & 4	7	66.55
S/2	13	320.00
NW/4 SW/4	16	40.00
E/2 SE/4; SW/4 SE/4; W/2 NW/4	17	200.00
E/2 NE/4; Lots 1 & 2	18	147.16
Total		773.71
Township 3 South, Range 8 West:		
E/2; NW/4; E/2 SW/4	35	560.00
S/2 S/2	1	160.00
SW/4	2	160.00
W/2 SE/4	3	80.00
Lots 3; SE/4 NW/4; NE/4 SW/4	6	120.04
SE/4	9	160.00
NE/4	10	160.00
S/2 NW/4	11	80.00
NW/4; SE/4	12	320.00
N/2 NE/4; SE/4 NE/4; NE/4 NW/4	13	320.00
NE/4; S/2	14	480.00
S/2	15	320.00
W/2 NE/4; S/2 NW/4	27	160.00
Total		3,080.04

Township 3 South, Range 9 West:		
SW/4 NW/4; NW/4 SW/4.....	27	80.00
Township 4 South, Range 2 West:		
Lot 3; NE/4 SW/4; N/2 SE/4	7	159.70
E/2 NE/4; SW/4 NE/4.....	12	120.00
E/2 NW/4; SW/4 NW/4.....	16	120.00
SE/4 NE/4; NW/4; NW/4 SW/4; N/2 SE/4.....	17	320.00
Lot 1	18	39.91
SE/4, S/2 NE/4; S/2 SW/4	21	320.00
S/2.....	22	320.00
W/2 SW/4.....	23	80.00
Lot 4	26	6.89
Lots 1-4, Incl	27	26.59
Lots 1-4, Incl	28	126.64
Lots 1-6, Incl.; NE/4; E/2 NW/4.....	30	475.16
Total		2,114.89
Township 4 South, Range 3 West:		
Lot 10	2	40.90
E/2 NE/4; NE/4 SE/4.....	13	120.00
Lots 1 & 2; N/2 SE/4; SW/4; N/2	25	622.29
All.....	26	640.00
Lots 1-6, Incl.; NW/4 NW/4	35	237.96
Lot 1	36	25.75
Total		1,686.90
Township 4 South, Range 4 West:		
S/2.....	25	320.00
Township 4 South, Range 8 West:		
N/2.....	29	320.00

Township 4 South, Range 9 West:		
S/2	9	320.00
All	10	640.00
All	11	640.00
S/2	12	320.00
N/2; N/2 S/2; SE/4 SE/4	13	520.00
N/2	14	320.00
N/2	15	320.00
N/2	16	320.00
N/2	17	320.00
Lots 3 & 4; E/2 SW/4; SE/4	18	319.09
Lots 1 & 2; E/2 NW/4; NE/4	19	319.37
Total		4,358.46
Township 4 South, Range 10 West:		
S/2	13	320.00
SE/4 NW/4; E/2 SW/4	17	120.00
NE/4 NW/4	20	40.00
Total		480.00
Township 5 South, Range 7 West:		
S/2 SW/4	35	80.00
Township 5 South, Range 9 West:		
SE/4 NW/4; S/2 NE/4	34	120.00
SW/4 NW/4	35	40.00
Total		160.00
Township 6 South, Range 9 West:		
SW/4 SE/4	5	40.00
W/2 NE/4; NW/4 SE/4	8	120.00
Total		160.00
Grand Total		27,043.34

All such sales, exchanges, or other dispositions shall be made upon such terms as said committee and said authorized representatives shall deem satisfactory and may be made pursuant to bids or at private sale, and all funds or other property derived from such sales, exchanges, or other dispositions shall be subject to the terms of this subchapter. Consent by the tribal business committee and said authorized representatives to the sale, exchange, or other disposal of the lands herein described shall relieve the United States of any liability resulting from such sale, exchange, or other disposition. The tribal business committee and said authorized representatives are further authorized to sell or dispose of tribal assigned lands to the assignees thereof under such terms and conditions as may be agreed upon by the said tribal business committee and said authorized representatives with the assignees, subject, however, to the approval of the Secretary.

(Aug. 27, 1954, ch. 1009, § 9, 68 Stat. 869.)

§ 677i. Division of assets; basis; prior alienation or encumbrance; partition by Secretary upon nonagreement; assistance; management of claims and rights; division of net proceeds; applicability of usual processes of the law to originally owned stock of corporate representative and to corporate distributions

The tribal business committee representing the full-blood group, and the authorized representatives

of the mixed-blood group, within sixty days after the publication of the final membership roll, as provided in section 677g of this title, shall commence a division of the assets of the tribe that are then susceptible to equitable and practicable distribution. Such division shall be by agreement between them subject to the approval of the Secretary. Said division shall be based upon the relative number of persons comprising the final membership roll of each group. After such division the rights or beneficial interests in tribal property of each mixed-blood person whose name appears on the roll shall constitute an undivided interest in and to such property which may be inherited or bequeathed, but shall be subject to alienation or encumbrance before the transfer of title to such tribal property only as provided herein. Any contract made in violation of this section shall be null and void. If said groups are unable to agree upon said division within a period of twelve months from the date of such commencement, or any authorized extension of said period granted within the discretion of the Secretary, the Secretary is authorized to partition the assets of the tribe in such manner as in his opinion will be equitable and fair to both groups. Such partition shall give rise to no cause of action against the United States and the costs of such partition shall be paid by the tribe. The Secretary is authorized to provide such reasonable assistance as may be requested by both groups, or by either group, in formulation and execution of a plan for the division of said assets, including necessary technical services of Government employees at Fort Duchesne, Utah, and

arranging for necessary consultations with representatives of Federal departments and agencies, officials of the State of Utah, and political subdivisions thereof, and members of the tribe. All unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other assets not susceptible to equitable and practicable distribution shall be managed jointly by the Tribal Business Committee and the authorized representatives of the mixed-blood group, subject to such supervision by the Secretary as is otherwise required by law, and the net proceeds therefrom after deducting the costs chargeable to such management shall first be divided between the full-blood and mixed-blood groups in direct proportion to the number of persons comprising the final membership roll of each group and without regard to the number of persons comprising each group at the time of the division of such proceeds.

The stock of any corporation organized by the mixed-blood group for the purpose of empowering the officers of such corporation to act as the authorized representatives of said mixed-blood group in the joint management with the tribe and in the distribution and[1] unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other assets not susceptible to equitable and practicable distribution shall not be

[1] So in original. Probably, should be "of".

subject to mortgage, pledge, hypothecation, levy, execution, attachment or other similar process, while such stock remains in the ownership of the original stockholder or his heirs or legatees, but the interest of stockholders in any distribution by such corporation shall be subject to the usual processes of the law.

(Aug. 27, 1954, ch. 1009, § 10, 68 Stat. 873; Pub. L. 87-698, Sept. 25, 1962, 76 Stat. 597.)

REFERENCES IN TEXT

Herein, referred to in text, means act Aug. 27, 1954, ch. 1009, 68 Stat. 868, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1962 – Pub. L. 87-698 inserted last paragraph providing that originally owned stock of corporate representative should not be subject to the usual processes of the law but that corporate distributions should be subject to them.

§ 677j. Advances or expenditures from tribal funds; restrictions on mixed-blood group until adoption of plan for terminating supervision

Notwithstanding any other provision of existing law, the tribal funds now on deposit or hereafter deposited in the United States Treasury to the credit of the tribe or either group thereof, shall be available

for advance to the tribe or the respective groups, or for expenditure, for such purposes, including per capita payments, as may be designated by the Tribal Business Committee for the full-blood members, and by the authorized agents of the mixed-blood members, and in either event subject to the approval of the Secretary: *Provided*, That the aggregate amount of the expenditures and advances authorized by this section for the mixed-blood group shall not exceed 50 per centum of the total funds of said mixed-blood group after such division, until said mixed-blood group has adopted a plan approved by the Secretary for termination of Federal supervision of said mixed-blood group, as required under section 677*l* of this title. After such termination of Federal supervision, per capita payments to the mixed-blood group shall not be subject to approval of the Secretary.

(Aug. 27, 1954, ch. 1009, § 11, 68 Stat. 873.)

§ 677k. Adjustment of debts in making per capita payments to mixed-blood members; execution of mortgages on property

Fifty per centum of all per capita payments to any individual mixed-blood member made pursuant to any division or distribution hereunder shall have deducted therefrom any sum or sums of money owed by such member to the tribe, whether due or to become due, unless in the opinion of the Secretary said debts are not adequately secured in which event the entire per capita payment shall be subject to such

offset. Any other division, partition or distribution of property to any individual mixed-blood member made pursuant to this subchapter shall be subject to a mortgage to be made in favor of the tribe securing the payment of all sums of money owed by him to the tribe on the date of such division, partition or distribution to such individual mixed-blood member. The Secretary shall require the execution of any mortgage required under this section as a condition to any such division, partition or distribution.

(Aug. 27, 1954, ch. 1009, § 12, 68 Stat. 874.)

REFERENCES IN TEXT

Hereunder, referred to in text, means act Aug. 27, 1954, ch. 1009, 68 Stat. 868, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

§ 677*l*. Distribution to individual members of mixed-blood group; preparation and approval of plan; assistance; provisions permitted in plan

After the adoption of a plan for the division of the assets between the two groups, a plan for distribution of the assets of the mixed-blood group to the individual members thereof shall be prepared and ratified by a majority of said group, within the period of six months from such adoption and presented to the Secretary for approval. The Secretary is authorized to provide such reasonable assistance, including necessary technical

service of Government employees at Fort Duchesne, Utah, and arranging for necessary consultations with representatives of Federal departments and agencies, officials of the State of Utah and political subdivisions thereof, as may be required by the mixed-blood group in the preparation of such plan.

The plan for division of the assets among the members of the mixed-blood group may include:

(1) Complete disposition of all cash assets of said group, reserving, however, sufficient funds to cover –

(i) the proportionate share of said mixed-blood group in and to all expenses incurred in effecting the purposes of this subchapter, including, but not limited to, the necessary expense incurred under this section and section 677m of this title;

(ii) the just and proportionate share of the mixed-bloods in the expense incurred in the prosecution of the claims of the tribe, or the bands thereof, against the United States; and

(iii) the determinable and estimated administrative costs and expenses of any mixed-blood organization authorized by this subchapter, including lawful and reasonable salaries and fees of authorized agents, officers and employees of said mixed-blood group.

(2) Partition of the lands of the mixed-blood group, excepting all gas, oil, and mineral rights, to corporations, partnerships, or other legal entities, and to trustees, and the individual members of said groups, quality and quantity relatively considered, according to the respective rights and

interests of the parties, located so as to embrace, as far as practicable, any improvements lawfully made by the person or persons receiving such land. The value of the improvements made, under a valid lease or assignment from the tribe, shall be excluded from the valuation in making allotments to the lessee or assignee, and the land must be valued without regard to such improvements unless the lease or assignment, under which said improvements were made, provided that such improvements should become the property of the tribe. In the making of any partition due consideration shall be given to all of the rights and interests of the person or persons receiving the property, and all of the rights and interests of the other members of the tribe. Two or more of the members of said mixed-blood group may obtain their share of property as tenants in common, as joint tenants, or in any other lawful manner when such members agree among themselves as to the manner in which they desire to receive such title. When it appears that an equitable partition cannot be made among the members of said mixed-blood group without prejudice to the rights and interests of some of them, and yet a partition is directed by the group, the members of said group may voluntarily determine compensation to be made by one party to another on account of the inequity. In all cases where equity is agreed upon by the members of said mixed-blood group, such compensatory adjustment among the parties, according to the principles of equity, must be approved by the Secretary. In the event of a failure to agree upon an equitable compensatory adjustment among the parties the Secretary shall make such adjustment and his decision shall be final.

(3) Organization of corporations for the grazing of livestock, handling of water and water rights, and the shares therein may be issued to the members of said group in proportion to their interests in the assets of such corporations. When, in the opinion of said mixed-blood group, it is to the best interest of said group to transfer a portion of the assets of said group to a corporation or other legal entity for any purpose, the Secretary is authorized to make such transfer.

(4) A transfer of assets to one or more trustees designated by said group who shall hold title to all or any part of the property of said group for management or liquidation purposes under terms and conditions prescribed by said mixed-blood group. The Secretary is authorized to make such transfer, and approve the trustees, and the terms and conditions of the trust.

(5) Sale of any portion of the assets of said group subject to the approval of the Secretary. In addition to the sales herein otherwise authorized, authority is granted to the authorized representatives of said group to sell any property of said group when, in the opinion of the majority of said mixed-blood group, a practicable partition cannot be made, or for any other reason it is deemed to the best interests of the group, and the proceeds of such sales shall be distributed equitably among the members of said mixed-blood group; after deducting reasonable cost of sale and distribution.

(Aug. 27, 1954, ch. 1009, § 13, 68 Stat. 874.)

§ 677m. Procedure by Secretary if distribution not completed within seven years from August 27, 1954

In the event all the tribal assets, susceptible to equitable and practicable distribution, distributed to the mixed-blood group under the provisions of section 677i of this title, are not, within seven years from August 27, 1954, distributed to the individual mixed-blood members as contemplated in the plan to be adopted in accordance with the provisions of section 677*l* of this title, so as to effectively terminate Federal supervision over said assets, then the Secretary shall proceed to make such distribution in a manner, in his discretion, deemed fair and equitable to all members of said group, or convey such assets to a trustee for liquidation and distribution of the net proceeds, or convey such assets to the persons entitled thereto as tenants in common.

(Aug. 27, 1954, ch. 1009, § 14, 68 Stat. 875.)

§ 677n. Disposal by mixed-blood members of their individual interests in tribal assets; requisites and conditions

Any member of the mixed-blood group may dispose of his interest in the tribal assets prior to termination of Federal supervision, subject to the approval of the Secretary. In the event a member of the mixed-blood group determines to dispose of his interest in any of said real property at any time within ten years from August 27, 1954, he shall first offer it to the members of the tribe, and no sale of any

interest, prior to termination of Federal supervision, shall be authorized without such offer to said members of the tribe in such form as may be approved by the Secretary. After termination of Federal supervision the requirement of such offer, in form to be approved by the Secretary, shall be a covenant to run with the land for said ten-year period, and shall be expressly provided in any patent or deed issued prior to the expiration of said period.

(Aug. 27, 1954, ch. 1009, § 15, 68 Stat. 876.)

§ 677*o*. Termination of restrictions on individually owned property of the mixed-blood group

(a) Transfer of control of trust property; removal of sales restrictions

When any mixed-blood member of the tribe has received his distributive share of the tribal assets distributed to the mixed-blood group under the provisions of section 677i of this title, whether such distribution is made in part or in whole to a corporation, partnership, or trusteeship in which he is interested, or otherwise, the Secretary is authorized and directed to immediately transfer to him unrestricted control of all other property held in trust for such mixed-blood member by the United States, and shall further remove all restrictions on the sale or encumbrance of trust or restricted property owned by such member of the tribe, and Federal supervision of such member and his property shall thereby be terminated, except

as to his remaining interest in tribal property in the form of any unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other tribal assets not susceptible to equitable and practicable distribution, all of which shall remain subject to the terms of this subchapter, notwithstanding anything contained herein to the contrary.

(b) Partition or sale by Secretary prior to removal of restrictions

Prior to the removal of restrictions in accordance with the provisions of subsection (a) of this section on land owned by more than one person, the Secretary may –

(1) upon request of any of the owners, partition the land and issue to each owner an unrestricted patent or deed for his individual share, unless such owner is a full-blood member of the tribe or other Indian who owns trust or restricted property, in which event a trust patent or restricted deed shall be issued and such trust may be terminated or such restrictions may be removed when the Secretary determines that the need therefor no longer exists;

(2) upon request of any of the owners and a finding by the Secretary that partition of all or any part of the land is not practicable, cause all or any part of the land to be sold at not less than the appraised value thereof and distribute the proceeds of sale to the owners: *Provided,* That before a sale any one or more of the owners may elect to purchase the other interests in the land,

or the tribe may elect to purchase the entire interest in the land, at not less than the appraised value thereof.

(Aug. 27, 1954, ch. 1009, § 16, 68 Stat. 876.)

REFERENCES IN TEXT

Herein, referred to in subsec. (a), means act Aug. 27, 1954, ch. 1009, 68 Stat. 868, which comprises this subchapter. For complete classification of this Act to the Code, see Tables.

§ 677p. Tax exemption; exceptions and time limits; valuation for income tax on gains or losses

No distribution of the assets made under the provisions of this subchapter shall be subject to any Federal or State income tax: *Provided*, That so much of any cash distribution made hereinunder as consists of a share of any interest earned on funds deposited in the Treasury of the United States shall not by virtue of this subchapter be exempt from individual income tax in the hands of the recipients for the year in which paid. Property distributed to the mixed-blood group pursuant to the terms of this subchapter shall be exempt from property taxes for a period of seven years from August 27, 1954, unless the original distributee parts with title thereto, either by deed, descent, succession, foreclosure of mortgage, sheriff's sale or other conveyance: *Provided*, That the mortgaging, hypothecation, granting of a right-of-way, or

other similar encumbrance of said property shall not be construed as a conveyance subjecting said property to taxation under the provisions of this section. After seven years from August 27, 1954, all property distributed to the mixed-blood members of the tribe under the provisions of this subchapter, and all income derived therefrom by the individual, corporation, or other legal entity, shall be subject to the same taxes, State and Federal, as in the case of non-Indians; except that any corporation organized by the mixed-blood members for the purpose of aiding in the joint management with the tribe and in the distribution of unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other assets not susceptible to equitable and practicable distribution shall not be subject to corporate income taxes. Any valuation for purposes of Federal income tax on gains or losses shall take as the basis of the particular taxpayer the value of the property on the date title is transferred by the United States pursuant to this subchapter.

(Aug. 27, 1954, ch. 1009, § 17, 68 Stat. 876; Aug. 2, 1956, ch. 880, § 3, 70 Stat. 936.)

AMENDMENTS

1956 – Act Aug. 2, 1956, included within exception clause provisions respecting exemption from corporate income taxes.

§ 677q. Applicability of decedents' estates laws to individual trust property of mixed-blood members

The laws of the United States with respect to probate of wills, determination of heirship, and the administration of estates shall apply to the individual trust property of mixed-blood members of the tribe until Federal supervision is terminated. Thereafter, the laws of the several States, Territories, possessions, and the District of Columbia within which such mixed-blood members reside at the time of their death shall apply.

(Aug. 27, 1954, ch. 1009, § 18, 68 Stat. 877.)

§ 677r. Indian claims unaffected

Nothing in this subchapter shall affect any claim heretofore filed against the United States by the tribe, or the individual bands comprising the tribe.

(Aug. 27, 1954, ch. 1009, § 19, 68 Stat. 877.)

§ 677s. Valid leases, permits, liens, etc., unaffected

Nothing in this subchapter shall abrogate any valid lease, permit, license, right-of-way, lien, or other contract heretofore approved.

(Aug. 27, 1954, ch. 1009, § 20, 68 Stat. 877.)

§ 677t. Water rights

Nothing in this subchapter shall abrogate any water rights of the tribe or its members.

(Aug. 27, 1954, ch. 1009, § 21, 68 Stat. 877.)

§ 677u. Protection of minors, persons non compos mentis, and other members needing assistance; guardians

For the purposes of this subchapter, the Secretary shall protect the rights of members of the tribe who are minors, non compos mentis, or, in the opinion of the Secretary, in need of assistance in conducting their affairs, by such means as he may deem adequate, but appointment of guardians pursuant to State laws, in any case, shall not be required until Federal supervision has terminated.

(Aug. 27, 1954, ch. 1009, § 22, 68 Stat. 877.)

§ 677v. Termination of Federal trust; publication; termination of Federal services; application of Federal and State laws

Upon removal of Federal restrictions on the property of each individual mixed-blood member of the tribe, the Secretary shall publish in the Federal Register a proclamation declaring that the Federal trust relationship to such individual is terminated. Thereafter, such individual shall not be entitled to any of the services performed for Indians because of his status as an Indian. All statutes of the United

States which affect Indians because of their status as Indians shall no longer be applicable to such member over which supervision has been terminated, and the laws of the several States shall apply to such member in the same manner as they apply to other citizens within their jurisdiction.

(Aug. 27, 1954, ch. 1009, § 23, 68 Stat. 877.)

§ 677w. Presentation of development program for full-blood group to eventually terminate Federal supervision

Within three months after August 27, 1954, the business committee of the tribe representing the full-blood group thereof shall present to the Secretary a development program calculated to assist in making the tribe and the members thereof selfsupporting, without any special Government assistance, with a view of eventually terminating all Federal supervision of the tribe and its members.

(Aug. 27, 1954, ch. 1009, § 24, 68 Stat. 877; Pub. L. 93-608, § 1(15), Jan. 2, 1975, 88 Stat. 1969.)

AMENDMENTS

1975 – Pub. L. 93-608 struck out requirement of an annual progress report, through the Secretary, by the tribal business committee representing the full-blood group.

§ 677x. Citizenship status unaffected

Nothing in this subchapter, shall affect the status of the members of the tribe as citizens of the United States.

(Aug. 27, 1954, ch. 1009, § 25, 68 Stat. 877.)

§ 677y. Execution by Secretary of patents, deeds, etc.

The Secretary shall have authority to execute such patents, deeds, assignments, releases, certificates, contracts, and other instruments, as may be necessary or appropriate to carry out the provisions of this subchapter, or to establish a marketable and recordable title to any property disposed of pursuant to this subchapter.

(Aug. 27, 1954, ch. 1009, § 26, 68 Stat. 877.)

§ 677z. Rules and regulations; tribal or group referenda

The Secretary is authorized to issue rules and regulations necessary to effectuate the purposes of this subchapter, and may, in his discretion, provide for tribal or group referenda on matters pertaining to management or disposition of tribal or group assets.

(Aug. 27, 1954, ch. 1009, § 27, 68 Stat. 878.)

§ 677aa. Procedure by Secretary upon non-agreement between mixed-blood and full-blood groups

Whenever any action pursuant to the provisions of this subchapter requires the agreement of the mixed-blood and full-blood groups and such agreement cannot be reached, the Secretary is authorized to proceed in any manner deemed by him to be in the best interests of both groups.

(Aug. 27. 1954. ch. 1009, § 27, 68 Stat. 878.)

COOPERATIVE AGREEMENT

Between the

UTE INDIAN TRIBE

and the

STATE OF UTAH

THIS AGREEMENT is made and entered into by and between the State of Utah and the Ute Indian Tribe.

WHEREAS, the Parties recognize a need for cooperation in the management and taking of fish and wildlife within the original boundaries of the *Uintah* and Ouray Reservation; and

WHEREAS, the State and the Tribe desire to manage wildlife in an atmosphere of a healthy ongoing government-to-government relationship through an agreement to cooperatively manage the resources and allocate hunting, fishing, and trapping opportunities on the Reservation; and

WHEREAS, those lands which comprise the Reservation have been identified and defined in *Hagen v. Utah,* 510 U.S. 399 (1994) and *Ute Indian Tribe v. Utah,* 114 F.3d 1513 (10th Cir. 1997); and

WHEREAS, settling the matters which are the subject of this Agreement is consistent with the spirit and intent of the Memorandum of Understanding entered into between

the State and the Tribe in December, 1994,

NOW, THEREFORE, in consideration of the mutual promises and obligations contained herein, the State and the Tribe agree as follows:

SECTION ONE
DEFINITIONS

As between the Parties, for the purposes of this Agreement, and this Agreement only, the following terms shall have the meanings set forth, unless the context clearly requires otherwise.

1. "Authorized Sportsmen" means Tribal Members and Mixed-Bloods who have been issued an Non-Trust Lands hunting, trapping, or fishing permit by the Tribe or who have otherwise been granted authority under this Agreement to hunt, trap, or fish on *Hagen* Lands.

2. "*Hagen* Lands" shall mean those lands within the original boundaries of the Reservation which were determined to have been removed therefrom in *Hagen v. Utah,* 510 U.S. 399 (1994) and *Ute Indian Tribe v. Utah,* 114 F.3d 1513 (10th Cir. 1997), including those lands known as the 'Strawberry Reclamation Project" and the "Gilsonite Strip."

3. "Mixed-Bloods" means those former members of the Tribe whose names appear on the Final Mixed-Blood Roll published in the Federal Register on April 5, 1956.

4. "Non-Member Indian(s)" means an enrolled member of an Indian tribe other than the Tribe that is recognized by the Secretary of the Interior as possessing a government-to-government relationship with the United States.

5. "Non-Trust Lands" means those lands of the Reservation that are not held in trust by the United States for the Tribe, an individual or group of individuals.

6. "Parties" means the State and the Tribe.

7. "Permit" means an authorization issued by the State or Tribe to an individual to hunt, fish, or trap in a particular area.

8. "Proper Identification" means the documents described for the Individuals set forth below:

a. *Tribal Members* – an identification card issued by the Tribe.

b. *Mixed-Bloods* – a Mixed-Blood identification card issued by the Bureau of Indian Affairs.

c. *Non-Member Indians* – an identification card issued by the Indian tribe of which such person is an enrolled member.

d. *All Others* – a valid picture identification card, *e.g.*, driver's license, issued by the state in which such person resides.

9. "Reservation" and "Reservation Lands" means those lands within the original confines of the Uintah

and Ouray Reservation as set forth by Executive Orders of October 3, 1861, and January 5, 1882, that were determined to be Indian country (*see* 18 U.S.C. § 1151) in *Hagen v. Utah*, 510 U.S. 399 (1994) and *Ute Indian Tribe v. Utah*, 114 F.3d 1513 (10th Cir. 1997).

10. "State" means the State of Utah.

11. "Tag" means a card, label or other identification device, with appropriate notches, issued for attachment to the carcass of wildlife.

12. "Tribal Member(s)" means any person or persons enrolled as a member(s) of the Tribe.

13. "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

14. "Trust Lands" means those lands of the Reservation that are held in trust by the United States for the benefit of the Tribe, an individual or group of individuals, and which are subject to the exclusive jurisdiction of the Tribe and the United States.

SECTION TWO
COOPERATIVE MANAGEMENT

The Parties shall work together in the management of wildlife resources as a valuable resource that inhabits lands subject to the jurisdiction of the Tribe and the State. The Parties agree to meet at least annually to implement cooperative management. The Parties shall exchange data on the size

and composition of game herds, the condition of wildlife habitat, and the annual harvest of game animals. The State will manage wildlife resources on *Hagen* and Non-Trust Lands and the Tribe will manage wildlife resources on Trust Lands. Both Parties will endeavor to develop and implement cooperative species management plans and joint management projects when opportunities arise.

Both Parties agree to communicate with each other on high priority wildlife projects or wildlife-related concerns throughout the course of the year, Examples may include, but are not limited to, fish kills in streams or reservoirs, captures, wildlife marking and/or selling of wildlife, transplants of unique species, re-introduction of threatened/endangered species, and large scale rehabilitation projects for wildlife habitat.

Both Parties agree to cooperate in an equitable manner when exchanging, transplanting, or removing excess wildlife.

SECTION THREE
HUNTER SAFETY REQUIREMENT

Before issuing a hunting permit to a person under the age of eighteen for hunting on *Hagen* or Non-Trust Lands, the Parties shall require that such person establish by means of a certificate or otherwise that the person has completed a hunter safety course in accordance with the Parties' respective requirements. This section shall be construed consistent with Section Five.

SECTION FOUR
DEPREDATION HUNTING

The Parties shall cooperate in dealing with situations where wildlife needs to be reduced in numbers or otherwise controlled. When the State and the Tribe agree that animals need to be removed to prevent depredation, the Tribe shall have the responsibility for arranging depredation control efforts on Trust lands and the State shall have the responsibility for arranging depredation control efforts on *Hagen* and Non-Trust Lands.

SECTION FIVE
AUTHORIZED SPORTSMEN

Subject to this Agreement and the hunter safety requirements of Section Three, the Tribe shall have the responsibility for determining who qualifies as an Authorized Sportsman for *Hagen*, Trust, and Non-Trust Lands. Authorized Sportsmen hunting, fishing or trapping on *Hagen*, Tribal, and Non-Trust Lands shall not be required to possess a State-issued hunting, fishing or trapping permit. However, nothing in this Agreement shall authorize, or shall be construed as authorizing, Mixed-Bloods to hunt, fish, or trap on *Hagen* Lands without a State-issued permit. Where an Authorized Sportsman elects to apply for a hunting permit outside this agreement through the State process, State hunter safety requirements must be satisfied before such license or permit may be issued. Further, compliance with all State hunting, fishing, and trapping regulations shall be required.

SECTION SIX
PROPER IDENTIFICATION

All persons hunting, fishing, trapping or transporting animals on *Hagen* or Non-Trust Lands shall have the appropriate permit and Proper Identification immediately available while engaged in such activities.

SECTION SEVEN
FORM OF TAGS

Tags issued by the Tribe and by the State to the holders of permits for hunting and trapping on *Hagen* and Non-Trust Lands shall be of the type that require successful hunters to cut a notch in the tag, so that no more than the authorized number of animals are harvested by each hunter. Wildlife officials of the Tribe and of the State shall cooperate in checking the tags of hunters and trappers on *Hagen* and Non-Trust Lands, to ensure they possess a tag and that the required notching has been done by the tag holder who harvested the wildlife.

SECTION EIGHT
LAW ENFORCEMENT

The State and the Tribe shall exercise civil and criminal jurisdiction over hunting, fishing, and trapping activities on the Reservation in accordance with the Parties' respective authorities under *Hagen v. Utah*, 510 U.S. 399 and *Ute Indian Tribe v. Utah*, 114 F.3d 1513; provided however, that Tribal Members

charged with misdemeanor wildlife offenses committed on *Hagen* Lands shall be referred to the courts and officers of the Tribe for processing and prosecution consistent with the procedural requirements of all other applicable agreements between the Tribe and the State.

SECTION NINE
PROCLAMATION OF TRIBE AND STATE

1. *Hunting and Trapping Proclamation of Tribe* – The Tribe, through its annual proclamations, shall inform Authorized Sportsmen about the terms and conditions of hunting and trapping on the *Hagen* and Non-Trust Lands. The Tribe agrees that its hunting and trapping proclamations and regulations for *Hagen* and Non-Trust Lands shall be consistent with the State's annual proclamations and regulations relative to season dates, methods of take, bag limits, antler restrictions, and other hunting and trapping requirements. The proclamations shall further state that Mixed-Bloods are not eligible for status as Authorized Sportsmen on *Hagen* Lands. In this regard, the Tribe shall advise Authorized Sportsmen that they are not permitted to hunt or trap upon privately-owned lands that are posted against trespassing without the prior consent of the landowner.

2. *Hunting and Trapping Proclamations of State* – The State shall inform hunters and trappers holding a State-issued permit for *Hagen* and Non-Trust Lands that possession of such a permit does not

authorize them to hunt, trap, or trespass upon Trust Lands. Notification to this effect shall appear in the State's annual proclamations and on all associated maps. In the event the State issues maps to sportsmen, Trust Lands shall be identified on such maps and identified as areas closed to hunting and trapping under a State-issued permit.

3. *Fishing Proclamation of Tribe* – Fishing proclamations of the Tribe covering *Hagen* and Non-Trust Lands shall inform Tribal Members and Mixed-Bloods that: (a) Mixed-Bloods are prohibited from fishing on *Hagen* Lands without a State-issued fishing license; and (b) with the exception noted in 3(a), they need not possess a State Fishing license for activities conducted on *Hagen* and Non-Trust Lands. Tribal Members and Mixed-Bloods not required to possess a State-issued fishing license under this Agreement must have in their possession Proper Identification. The Tribe agrees that its fishing proclamation for *Hagen* and Non-Trust Lands shall be consistent with the State's annual proclamation and regulations relative to season dates, method of take, bag limits, size and species restrictions, and other fishing requirements. In this regard, the Tribe shall advise Authorized Sportsmen that they are not permitted to fish upon privately-owned lands that are posted against trespassing without the prior consent of the landowner.

4. *Fishing Proclamation of State* – Fishing proclamations of the State shall inform persons that they must possess a fishing license issued by the

Tribe to fish upon Trust Lands, and that possession of a State-issued Fishing license does not grant to such persons the authority to fish or trespass upon Trust Lands.

5. *Bag Limits* – Any person having overlapping authority to hunt, trap or fish Trust Lands, Non-Trust Lands and/or *Hagen* Lands, unless otherwise provided in this Agreement, may not cumulatively take or possess on those lands more than one bag limit.

SECTION TEN
GENERAL SEASONS ON *HAGEN* AND NON-TRUST LANDS

Subject to the restrictions in Sections Five, Nine, and Twelve, the Tribe may distribute to Authorized Sportsmen permits and associated tags permitting the annual harvest of a total of one (1) buck deer and one (1) bull elk on *Hagen* and Non-Trust Lands, excluding closed or limited entry hunt units. Authorized Sportsmen may harvest only the deer or elk to fill their own permits, and may not fill the permit of another person. The Tribe may permit Authorized Sportsmen to take one buck deer and/or one bull elk on *Hagen* and Non-Trust Lands in addition to any male animal(s) lawfully taken on Trust Lands.

Animals shall be harvested by Authorized Sportsmen during the time frame set out in the Big Game Proclamations of the Tribe and State; provided however, the Parties agree that the Tribe

may authorize Authorized Sportsmen to hunt deer on *Hagen* and Non-Trust Lands within the South Slope hunting unit, during a period that begins the first Saturday following the end of the State's general archery buck deer hunt and ends ten (10) days thereafter.

SECTION ELEVEN
LIMITED ENTRY/DRAW PERMITS

The Parties recognize that there are certain portions of the *Hagen* and Non-Trust Lands that are managed as limited entry hunting units. The Parties agree that the Tribe may, pursuant to its proclamations and subject to the limitations in Sections Five, Nine, and Twelve, issue to Authorized Sportsmen a proportional number of permits that reflects the total amount of *Hagen* and Reservation Lands committed to those limited entry hunt areas that extend into or fall within the original exterior boundary of the Reservation. Limited entry permits shall be issued and used in accordance with both applicable proclamations of the State and the Tribe.

1. For purposes of this Agreement, the Parties agree that the Tribe shall issue to Authorized Sportsmen twenty-five percent (25%) of the permits allocated by the State to the *Hagen* and Non-Trust Lands of each limited entry draw unit or subunit. The number of permits to be issued by the tribe for each limited entry draw unit or subunit shall be

determined through application of the example provided below.

Examples: The lands enclosed within a limited entry hunt unit or subunit are composed of sixty percent (60%) *Hagen* and Reservation Lands and forty percent (40%) non-*Hagen* and non-Reservation lands, for which one hundred (100) limited entry bull elk permits are available. Of the one hundred (100) permits, sixty percent (60%) are allocable to the *Hagen* and Reservation Lands of the unit or subunit (100 permits x 60% of the unit/subunit acreage = 60 permits). The Tribe is entitled to issue twenty-five percent (25%) of the permits allocable to the *Hagen* and Reservation Lands. Thus, the Tribe will be permitted to issue fifteen (15) permits for such limited entry unit or subunit (60 permits x 25% = 15).

The lands enclosed within a limited entry hunt unit of subunit are composed of ninety percent (90%) Reservation Lands and ten (10%) percent non-Reservation lands, for which fifty (50) limited entry bull elk permits are available. Of the fifty (50) permits, ninety percent (90%) are allocable to the Reservation Lands of the unit or subunit (50 permits x 90% of the unit/subunit acreage = 45 permits). The Tribe is entitled to issue twenty-five percent (25%) of the permits allocable to the Reservation Lands. Thus, the Tribe will be permitted

to issue twelve (11) permits for such limited entry unit or subunit (45 permits x 25% = 11.25, rounded normally to 11).

In all instances, the number of pennies available to the Tribe for issuance to Authorized Sportsmen shall be further determined by rounding the figure arrived at under the preceding formula to the next closest whole number; *e.g.*: (i) if the number is 14.5 through 15.4 permits, the Tribe may issue 15 permits; and (ii) if the number is 15.5 through 16.4 permits, the Tribe may issue 16 permits.

2. For purposes of calculating the Tribe's allocable share of permits, the total number of permits available for limited entry hunts shall include all permits identified by the State for issuance. This "total number of permits" shall include, without any limitation, permits issuable to landowners, residents, non-residents, and the Tribe.

3. Notwithstanding the permit allocation formula outlined in this Section, the State will allocate to the Tribe for issuance to Authorized Sportsmen no less than one (1) permit for each limited entry hunt where a hunting unit or subunit includes within its area *Hagen* and/or Reservation Lands.

SECTION TWELVE
HAGEN LANDS

In consideration of the Tribe's commitments herein, the State agrees to allow Tribal Members hunting, fishing and trapping opportunities on *Hagen*

Lands to the extent the same are available under this Agreement on Non-Trust Lands. Mixed-Bloods may not hunt, fish or trap on *Hagen* Lands without the appropriate State-issued permit, regardless of whether they possess a permit, including a limited entry permit, issued by the Tribe for Trust and/or Non-Trust Lands. Nothing in this Section shall be construed as authorization for Tribal Members or Mixed-Bloods to hunt, fish, or trap on privately owned lands that are posted against trespassing without the prior consent of the landowner.

SECTION THIRTEEN
ACCESS

In consideration of the State's commitments herein, the Tribe agrees to allow access to the Book Cliffs roadless area through Sego Canyon on the Totem Pole Trail and the Went Ridge Road by State officials and the general public.

1. *Access of Public.* The general public's access is restricted to the period of time beginning May 1st and ending November 30th of each year. In return for such access, the State agrees to provide trespass enforcement, trail maintenance, fence construction/maintenance, and signing on those portions of the Totem Pole Trail and Went Ridge Road that cross Trust Lands.

2. *Access of State.* With respect to access for State officials across other Trust Lands, the State will, on an annual basis, provide the Tribe with a list

of employees and vehicles who may have need, as part of their official duties, to cross Trust Lands. In addition, if State employees need or desire to be on Trust Lands for extended periods of time to conduct specific management projects, permission will be sought by contacting the Tribe. Thereafter the Tribe will grant access over Trust Lands to State employees carrying out approved projects and who possess adequate State identification within the time frames approved by the Tribe.

SECTION FOURTEEN
TERM AND TERMINATION

This Agreement shall be effective on the date executed by the Parties and shall remain in force in perpetuity, unless terminated as set forth herein. Either the State or the Tribe may terminate this Agreement by giving written notice to the other party no later than January 31 of any calendar year. If such notice is not given on or before January 31 that the Agreement is terminated, the Agreement shall remain in force for that year and may not be terminated until the next year.

SECTION FIFTEEN
WAIVER AND ESTOPPEL

The Tribe and the State agree that nothing contained herein shall be deemed a waiver, estoppel, or creation of vested rights or an acceptance by either party hereto of a position with respect to wildlife

management, general jurisdiction, or definition of those lands comprising the Reservation.

SECTION SIXTEEN
MISCELLANEOUS PROVISIONS

1. *Notice* – All notices required to be given pursuant to this Agreement shall be sent by registered or certified mail, with postage paid, to the Parties at the following addresses:

Ute Indian Tribe
Fish and Wildlife Department
Attn: Director
P.O. Box 190
Fort Duchesne, Utah 84026

State of Utah
Division of Wildlife Resources
Attn: Director
1594 West North Temple
Salt Lake City, Utah 84114-6301

2. *Headings* – All headings used in this Agreement are inserted only for convenience and ease of reference, and are not to be considered in the construction or interpretation of any provision of this Agreement.

3. *Entire Agreement* – This Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject addressed herein and supersedes and renders void any prior understandings, negotiations, or agreements between the Parties affecting this subject. No

provision of this Agreement may be changed, modified, waived, or amended without the prior written consent of the Parties.

IN WITNESS WHEREOF the State of Utah and the Ute Indian Tribe of the Uintah and Ouray Reservation do hereby enter into this Agreement effective this 7th day of May, 1999.

UTE INDIAN TRIBE

By: /s/ Ronald Wopsock
Ronald Wopsock, Chair
Uintah and Ouray Tribal Business Committee

STATE OF UTAH

By: /s/ Michael O. Leavitt
Michael O. Leavitt
Governor
State of Utah